


**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**COMMITTEE ON PUBLIC SAFETY AND THE JUDICIARY**  
**COMMITTEE REPORT**  
**1350 Pennsylvania Ave, NW 20004**

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**TO:** All Councilmembers  
**FROM:** Councilmember Phil Mendelson,   
Chairman, Committee on Public Safety and the Judiciary  
**DATE:** November 25, 2008  
**SUBJECT:** Report on Bill 17-843, "Firearms Registration Amendment Act of 2008"

The Committee on Public Safety and the Judiciary, to which Bill 17-843, the "Firearms Registration Amendment Act of 2008" (introduced as the Firearms Control Amendment Act of 2008) was referred, reports favorably thereon with amendments, and recommends approval by the Council.

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**I. BACKGROUND AND NEED**

Bill 17-843, the Firearms Registration Amendment Act of 2008, amends the District of Columbia Firearms Control Regulations Act of 1975, in light of the United States Supreme Court decision in *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008).

**Heller case; Council emergency bills**

On June 26, 2008, the United States Supreme Court issued a 5-4 decision in *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008), which held that the Second Amendment guarantees an individual's right to possess a firearm for the lawful purpose of self-defense within the home. In *Heller*, the Court struck down two provisions of the District's Firearms Control Regulations Act of 1975 (1975 Act) as unconstitutional.<sup>1</sup> First, the Court overturned the District's total ban on handguns. Second, the Court found that the District's safe storage provision, requiring that all firearms including rifles and shotguns, be kept "unloaded and disassembled or bound by a trigger

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<sup>1</sup> D.C. Law 1-85; D.C. Official Code § 7-2501.01 *et seq.*

locks”, is unconstitutional because it does not contain an explicit exception for self-defense. The Court stated: “[i]n sum, we hold that the District’s ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense.”<sup>2</sup>

The Council acted swiftly in response to the *Heller* case by adopting the Firearms Control Emergency Amendment Act of 2008 (D.C. Act 17-422) on July 15<sup>th</sup>, which was signed into law by the Mayor on July 16<sup>th</sup>. D.C. Act 17-422 permitted the registration of pistols and explicitly allowed an immediate self-defense exception to the safe storage provision of the law.

However, another provision of the 1975 Act, which had not been challenged in *Heller* and which was not addressed by the Supreme court, effectively prohibited the registration of most semi-automatic pistols because the typical semi-automatic can be fitted with a large ammunition magazine (containing over 12 rounds) and thus is considered a machine gun as that term is defined in the 1975 Act. Pursuant to law, machine guns are prohibited weapons in the District of Columbia.

In order to address this concern, the Council passed a subsequent piece of emergency legislation, the Second Firearms Control Emergency Amendment Act of 2008 (D.C. Act 17-502) on September 16<sup>th</sup>, which was signed into law by the Mayor on the same day. D.C. Act 17-502 changed the definition of machine gun. This allowed for the registration of most semi-automatic handguns and rifles. D.C. Act 17-502 also clarified the law’s safe storage provisions.

Although the District noted during litigation of the *Heller* case that there had never been any prosecutions under this provision, the Council believes that a safe storage requirement is an important statement of policy and direction consistent with accepted firearms training. The District was, and continues to be, concerned about a potential increase in accidental shootings in the home and wants laws that reflect standard gun safety practices. Best practices in other states are to impose penalties for the reckless storage of firearms when a minor accesses, or could access, the firearm. Given the lack of prosecution under the District’s 1975 safe storage law, and the primary goal of reducing the likelihood of accidental shootings, the Council believes that the child access prevention (“CAP”) law is the better approach.

D.C. Act 17-502 also prohibits large capacity ammunition feeding devices (such as a magazine or ammunition feed strip) similar to a provision in the now-lapsed federal assault weapons ban, so as to prevent the ability of an individual to fire a large quantity of ammunition without having to pause to reload. This change became necessary because the Council changed the definition of machine gun within the D.C. Official Code. D.C. Act 17-502 also limited the number of handguns any one individual may register at one time. Both Maryland and Virginia generally limit handgun purchases to one-per-30-days, per individual. The Council adopted similar language in D.C. Act 17-502.

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<sup>2</sup> *District of Columbia v. Heller*, 128 S. Ct 2783, 2821-2822 (2008).

### **Bill 17-843**

The Committee held one hearing on gun control generally, and two public hearings on Bill 17-843 specifically, in order to receive as much public comment as possible in crafting this bill. The District shares the problem of gun violence with other dense, urban jurisdictions – a problem which is quite different than the experience in suburban and rural America. The District, however, has a unique distinction: as the nation’s capital it hosts a large presence of government and diplomatic officials. The Committee is cognizant of its duty to give law enforcement every tool to protect all citizens from violence, but also to protect these officials from assassination. Cathy Lanier, Chief of the Metropolitan Police Department, testified to this fact before Congress on September 9, 2008.<sup>3</sup>

On the last page of its *Heller* opinion, the Supreme Court acknowledged “the problem of handgun violence in this country,” and the Court noted that, “The Constitution leaves the District of Columbia a variety of tools for combating that problem, including some measures regulating handguns.”<sup>4</sup> Keeping this in mind, the Committee has kept most of the provisions from D.C. Act 17-502 intact, and has added several additional provisions. The primary provisions of Bill 17-843 are discussed below.

### **Registration**

There is no comprehensive federal system of firearm registration. Federal law prohibits the use of the National Instant Criminal Background Check System (NICS) to create any system for the registration of firearms or firearms owners.<sup>5</sup> Nationally, however, seven states and the District of Columbia require registration of some or all firearms. Nine states have statutes prohibiting them from maintaining a registry of firearms.<sup>6</sup> Hawaii and the District are the only states that require all firearms to be registered. However, many major cities, including Chicago, Cleveland, and New York, have a system of firearm registration.

The Committee believes that the District must maintain a strong firearms’ registration law because it is part of a sound gun policy. Registration is critical because it: gives law enforcement essential information about firearm ownership, allows officers to determine in advance whether individuals involved in a call may have firearms, facilitates the return of lost or stolen firearms to their rightful owners, assists law enforcement in determining whether

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<sup>3</sup> Chief Lanier stated, “The terrorist attacks of September 11<sup>th</sup>, 2001, demonstrated something that we have known for some time: government facilities, dignitaries, and public servants are prime targets for terrorists, both foreign and domestic. Protecting government officials and infrastructure is a challenge for every city in the United States. But in Washington, DC, the likelihood of attack is higher, and the challenges to protecting the city are greater. The District’s high concentration of iconic structures—such as the national monuments, the White House, and, of course, the Capitol—make it a highly attractive target.” Testimony of Cathy L. Lanier, *Hearing on the Impact of Proposed Legislation on the District of Columbia’s Gun Laws*, United States House of Representatives, Committee on Oversight & Government Reform, Honorable Henry A. Waxman, Chair, September 9, 2008, Page 2.

<sup>4</sup> Id. at 2822.

<sup>5</sup> 28 C.F.R. § 25.9(b)(3).

<sup>6</sup> Legal Community Against Violence, *Regulating Guns in America: An Evaluation and Comparative Analysis of Federal, State and Selected Local Gun Laws* (hereafter “LCAV”) (2d ed. 2008) at 190.

registered owners are eligible to possess firearms or have fallen into a prohibited class, permits officers to charge individuals with a crime if an individual is in possession of an unregistered firearm, and permits officers to seize unregistered weapons.

Some critics of gun registration complain that only law abiding citizens comply. Let's assume *arguendo* that they are correct. Registration is enormously beneficial to law enforcement because it readily identifies criminals, and provides a means to readily arrest them. Registration also provides a means to enhance criminal penalties. For instance, police suspect gang activity, obtain a warrant, search a house, but find only unregistered weapons. Because of registration, the police can make an arrest. Or, police apprehend an armed-robbery suspect. Not only will he do time for the robbery, but he will do additional time because of the registration law. By separating the law abiding from the criminal, registration gives police additional law enforcement power.

Juliet Leftwich with the Legal Community Against Violence ("LCAV"), testified during the October 1, 2008 hearing that while the District has a good registration law in place, it needs to be strengthened. In LCAV's opinion, the most important way to strengthen the law would be to require that registration be renewed annually. The Committee believes that annual registration may be too burdensome for gun owners, and instead believes that registrants should attest to their address and possession of the firearms every three years. In addition, registrants should undergo a background check every six years. By having renewable registration of firearms, the District will be able to better track where firearms are located and allow MPD to have a better sense of whether a registered gun owner has become ineligible to own a firearm (e.g. due to a felony conviction or CPO in another state).

In developing this provision with the Executive, the Committee envisions that re-registration may be relatively easy. The attestation of address and firearms in possession could be done by mail or on-line. MPD should notify the applicant but, much like DMV, the burden is on the registrant to re-register regardless of notice. The sexennial background check would entail a fee (the FBI processing charge) but might be handled again by mail or on-line. The background check is critical, in our view, because it is more genuine than NICs check (the former being based on fingerprints, the latter based on identification card, which may be false).

#### Safe Storage Law -- CAP

As stated earlier, in D.C. Act 17-502, in order to ensure compliance with the ruling in *Heller*, the Council amended the District's safe storage provision. Bill 17-843 adopts the language of D.C. Act 17-502. The language is based on the CAP law in Connecticut. The provision states that a person may not keep or store a firearm on any premises they control if a minor can gain access to the firearm, unless the person keeps the firearm in a securely locked box, secured container, or in a location which a reasonable person would believe to be secure, or if the person carries the firearm on his person or within such close proximity that he can readily retrieve and use it as if he carried it on his person. The person faces civil and criminal penalties



if they fail to take these precautions and either a minor gains access to the firearm or injures themselves or others.<sup>7</sup>

Bill 17-843 makes two changes from the second emergency regarding the CAP provision. First, the provision applies to all firearms, not just loaded firearms. Second, it increases the age of the minor from under 16 to under 18 years of age. The Committee believes that the child access prevention provision is necessary and useful because the research shows that CAP laws are effective at reducing unintentional firearm deaths among children. LCAV testified before the Committee that the presence of unlocked guns in the home increases the risk of both accidental gun injuries and intentional shootings. They cited a study showing that more than 75% of the guns used in youth suicide attempts and unintentional injuries were stored in the residence of the victim, a relative, or a friend.<sup>8</sup> LCAV also found that in states where CAP laws had been in effect for at least one year, unintentional firearm deaths fell by 23% from 1990-94 among children under 15 years of age.<sup>9</sup> They also cite a 2005 study finding that the practice of keeping firearms locked and unloaded serves as a protective measure to reduce youth suicide and unintentional injury in homes with children and teenagers where guns are stored.<sup>10</sup>

While there are no CAP laws at the federal level, there are more than two dozen states that have enacted laws to keep guns out of the hands of children. The CAP laws throughout the country range from imposing criminal liability when a minor gains access to an improperly stored firearm, to merely prohibiting persons from directly providing a firearm to a minor. Fourteen states, including Maryland, California, Connecticut, and Texas, have CAP laws that impose criminal liability when a minor gains access to an improperly stored firearm. Additionally, fifteen states define the term ‘minor’ as someone under the age of 18. The Committee believes that the CAP law in Bill 17-843 is a sensible alternative to the problematic 1975 safe storage provision, and that it is vital in order to safeguard the lives of children.

### Ballistics and Microstamping

All firearms leave unique markings on the bullets and shell casings they fire. Ballistic identification laws enable law enforcement to link bullets and shell casings recovered at crime scenes to the firearm that fired them by test firing the firearm. During the October 1<sup>st</sup> hearing, Josh Horwitz, Executive Director of the Educational Fund to Stop Gun Violence (“Ed Fund”), testified on ballistics identification – specifically on a technology called “microstamping.” Microstamping can identify the serial number of a firearm directly from an expended cartridge case found at a crime scene. It utilizes laser technology to engrave microscopic markings (in the form of alpha and geometric codes) on the internal parts of a firearm, e.g. the breech face and the tip of the firing pin. When the firearm is fired, the markings are stamped onto the cartridge.

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<sup>7</sup> The Committee Print retains language originally from the 1975 Act as a statement of policy – that it is the policy of the District that all firearms, regardless of child access, should be stored unloaded and either disassembled or secured – but no criminal penalty attaches to this and it uses the word “should.”

<sup>8</sup> Juliet Leftwich, Legal Community Against Violence, *Testimony on Bill 17-843, Firearms Control Amendment Act of 2008*, October 1, 2008, at 6.

<sup>9</sup> LCAV, (2d ed. 2008), at 233.

<sup>10</sup> *Id.*

According to the Ed Fund, microstamping is superior to traditional methods of ballistic identification because the markings are intentionally stamped onto the cartridge, versus relying on unintentional markings. The markings identifying important information about the firearm, such as make, model, and serial number of the weapon.<sup>11</sup> The goal of microstamping is to identify a firearm the first time it is used to commit a crime.<sup>12</sup> On October 13, 2007, California became the first state mandating the microstamping of all new models of semiautomatic handgun models sold in the state beginning in 2010. The legislation was supported by 65 police chiefs throughout California.

Traditional methods of ballistic identification involve focusing on the tool marks on the interior surface of a firearm that are transferred from the firearm to an expended cartridge when the firearm is fired. These unintentional marks are a product of the manufacturing process. For decades, ballistic identification has relied on highly trained firearm examiners to analyze the marks by hand to make matches between a cartridge and a recovered firearm. Around 10 years ago the federal government created the national Integrated Ballistic Information Network (NIBIN) program to allow for computer-assisted searches of digital images of cartridges found at crime scenes. According to the Ed Fund, the problem with NIBIN is that it “relies on the same unintentional markings used by firearm examiners and cannot lead investigators directly to a specific firearm and its serial number, unless that weapon is eventually recovered.”<sup>13</sup> Unless a weapon has been used before in a crime, and recovered, and therefore entered into NIBIN, law enforcement will learn relatively little from a newly-recovered shell casing. With microstamping, however, law enforcement will almost immediately know the precise gun and its purchaser from the newly recovered shell casing, if from a semiautomatic pistol, even if never before used in a crime, and even if never having been entered into NIBIN.

This problem is highlighted by what has occurred in the State of Maryland over the past eight years. Maryland created the Maryland Integrated Ballistics Identification System (“MD-IBIS”) program in 2000, at a cumulative cost of \$2.5 million. A September 2004 report by the Maryland State Police Forensic Science Division found that “[c]ontinuing problems include the failure of the MD-IBIS to provide any meaningful hits. There have been no crime investigations that have been enhanced or expedited through the use of MD-IBIS...It is recommended that this Program be suspended...”<sup>14</sup>

Despite the results in Maryland, MPD insists that a DC-IBIS will work better. At the October 1<sup>st</sup> hearing, Chief Lanier testified that she believes that the District will have better success than Maryland because MPD would use trained firearms examiners (unlike what occurred in Maryland) and since MPD is test-firing all weapons to retrieve ballistics, the District would not have the problem of dealers not submitting authentic casings (as was the case in Maryland). In addition, Chief Lanier testified that the District would have better representation of crime scene evidence than either Maryland or New York because local jurisdictions process

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<sup>11</sup> Testimony of Joshua Horwitz, Executive Director, Educational Fund to Stop Gun Violence, *Public Hearing on Bill 17-843, Firearms Control Amendment Act of 2008*, October 1, 2008, at 2.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 1.

<sup>14</sup> Maryland State Police, Forensic Science Division, *MD-IBIS Progress Report*, September 2004.

most crime scenes. Chief Lanier stated that because MPD would be tracking both registered guns and crime scene evidence, there will be increased probability of a hit. Additionally, microstamping is not as useful for revolvers (since rarely are revolver shell casings left at a crime scene), and microstamping will apply only to newly manufactured pistols. For the reasons articulated by Chief Lanier during the hearing, the Committee has decided to retain the emergency acts' requirement that MPD conduct ballistic identification as part of the registration process for all handguns.

### Assault Weapons

The proliferation and use of assault weapons poses a threat to the health, safety, and security of all citizens of the District. Assault weapons are military-style weapons of war, made for offensive military use. The Committee concurs with the federal Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) description of assault weapons as "mass produced mayhem,"<sup>15</sup> and ATF's finding that assault weapons are disproportionately likely to be used by criminals. The Committee also agrees with ATF that assault weapons "are not generally recognized as particularly suitable or readily adaptable to sporting purposes" under the test established by the federal Gun Control Act of 1968.<sup>16</sup> Assault weapons have no legitimate use as self-defense weapons, and would in fact increase the danger to law-abiding users and innocent bystanders if kept in the home or used in self-defense situations.

As stated in the above paragraph, assault weapons are military-style weapons made for offensive military use. They are designed with military features to allow rapid and accurate spray firing. They are not designed for sport, but to kill people quickly and efficiently. Assault weapons also have features such as pistol grips and the ability to accept a detachable magazine. Pistol grips help stabilize the weapon during rapid fire and allow the shooter to spray-fire from the hip position. Assault weapons are generally equipped with large-capacity ammunition magazines that allow the shooter to fire many more rounds than conventional firearms. In addition, features such as barrel shrouds on assault pistols protect the shooter's hands from the heat generated by firing many rounds in rapid succession.

During the Committee's October 1, 2008 hearing, Brian Siebel, Senior Attorney with the Brady Center to Prevent Gun Violence testified on behalf of the Brady Center on the need for an assault weapons ban. The Brady Center testified that law enforcement officers are at particular risk from assault weapons due to their high firepower – which often times leaves officers outgunned by criminals. They cited several high-profile shootings involving law enforcement against criminals with assault weapons – including a 1994 incident at MPD headquarters that left one MPD officer and two FBI agents dead and another FBI agent seriously wounded.<sup>17</sup> The Brady Center further testified that assault weapons pose a risk to civilians and homeland security – the latter being a problem that is unique to the District, since it is the nation's capital. Assault weapons are preferred by terrorists, and would pose extraordinary risks to citizens, government

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<sup>15</sup> ATF, *Assault Weapons Profile* 19 (1994).

<sup>16</sup> *Id.* at 20.

<sup>17</sup> Testimony of Brian J. Siebel, Senior Attorney, Brady Center to Prevent Gun Violence, *Bill 17-843*, October 1, 2008 at 3.

officials, visiting dignitaries, and law enforcement if they were allowed in the District of Columbia.

Further, the proliferation and use of .50 BMG rifles, as defined in Bill 17-843, poses a clear and present terrorist threat to the health, safety, and security of all residents of, and visitors to, the District, based upon findings that those firearms have such a high capacity for long distance and highly destructive firepower that they pose an unacceptable risk of death and serious injury of human beings, destruction or serious damage of vital public and private buildings, civilian, police, government and military vehicles, power generation and transmission facilities and transportation infrastructure. The Committee also finds that these weapons are particularly dangerous and have no legitimate use for self-defense.

Seven states currently ban assault weapons – California, New Jersey, Hawaii, Connecticut, Maryland, Massachusetts, and New York. California expanded its ban in 2000 to include all semiautomatic rifles or pistols that have the ability to accept a detachable magazine and contain one of a series of military-style features. The Committee has adopted the California language in Bill 17-843.

In adding an assault weapons ban to Bill 17-843, the Committee believes that it has not impinged on the Constitutional rights of law-abiding citizens of the District of Columbia to own and use legitimate self-defense firearms within the home. The Committee finds that assault weapons and .50 BMG rifles are a minute fraction of the firearms available in the United States, they have never been in common use, they are dangerous and unusual, and they pose an especial problem for public safety in the nation's capital.

### Unsafe Pistols

During the October 1, 2008 hearing on Bill 17-843, Daniel Webster, Co-Director of the Johns Hopkins Center for Gun Policy and Research, testified on numerous aspects of firearms laws. Mr. Webster suggested the Committee prohibit “unsafe handguns.” These are a category of handguns characterized by their very small size, concealability, and poor construction, e.g. “saturday night specials.” Unsafe handguns are more prone to accidental discharge, lack safety devices to prevent unintended discharge, misfire, and are prone to firing when dropped. In addition, these types of guns are disproportionately favored by criminals (because of their cheapness and concealability), and are less accurate and less reliable for self defense. Mr. Webster also testified that five states, including Maryland, have banned these unsafe guns. He stated that his research on Maryland's ban on these guns shows that the law was associated with 40 fewer homicides per year during the first 9 years the law was in place.

California has enacted a comprehensive scheme to identify and test handguns to ensure that they meet minimum standards for safety. Testing includes: identification of safety devices, a firing requirement to assess the propensity for misfiring, and a drop test to assess the propensity to fire when dropped. Pursuant to California Penal Code section 12131, the California Department of Justice developed and updates a roster of approved firearms that may lawfully be sold in California because they have met all standards to determine that they are not unsafe

handguns. The Committee has added a provision in Bill 17-843 that states that no handgun that is not on the California Roster of Approved Firearms as of January 1, 2009, may be manufactured, sold, given, loaned, exposed for sale, transferred, or imported into the District of Columbia. In addition to incorporating the current California roster, the Committee Print authorizes the Chief of Police to continually update the roster through rulemaking.

### Other Provisions

In addition to the above mentioned provisions, Bill 17-843 also includes provisions dealing with a number of other public safety issues. Some of the more significant of these are discussed below. See the section-by-section analysis for others.

Bill 17-843 would make permanent revisions made in the Second Emergency (D.C. Act 17-502) permitting the registration of semiautomatic pistols. The 1975 law defined “machine gun” by capacity (over 12 rounds) rather than action (automatic v. semiautomatic). Thus, “machine gun” included almost all semiautomatic weapons because they are capable of taking (although not originally sold with) extended magazines. To fix this problem, since semiautomatic pistols are a common and popular weapon, Bill 17-843 redefines “machine gun.” To deal with the capacity issue, the bill prohibits large capacity magazines (“large capacity ammunition feeding devices”), borrowing language from the now-lapsed federal assault weapons ban and current California law. Although the Committee heard testimony that magazine capacity of up to 20 rounds is not uncommon and “reasonable,” and that an expert could reload 10 round clips within “seconds,” the Committee agrees with the Chief of Police that the 2 or 3 second pause to reload can be of critical benefit to law enforcement, and that magazines holdings over 10 rounds are more about firepower than self-defense. Limiting fire power and desiring to advantage the police, especially given homeland security issues in the District, the Committee recommends the ban on extended clips.

The committee print also updates the law regarding disqualifications to registration. In the 1975 act, the Council prohibited felons and mentally ill, for instance, from being allowed to register a firearm. Bill 17-843 adds to the disqualifications being convicted of an intrafamily offense. Research shows there is a higher incidence of gun violence by perpetrators of domestic violence. Similarly, being the respondent to a civil protection order correlates to domestic violence (and higher risk for gun violence). In this regard the bill tracks federal law with some modifications. The bill also specifies that “mental disorder” (not just commitment) is a disqualification. The Committee makes these changes because it believes a more effective approach to controlling gun violence in lieu of complete prohibition, post-Heller, is to disqualify individuals at higher risk of misusing a firearm (e.g. in suicide, or rage).

The committee print retains authorization, first enacted in D.C. Act 17-422, for the Chief of Police to set a fee for conducting ballistic identification procedures. The Committee is concerned that the total cost to register a firearm not be unduly burdensome, and it is expected that the aggregate cost will be close to \$100. But there is a cost for fingerprinting, the ballistic test, processing, and to maintain a database. The print uses the phrase “reasonable fees” to emphasize that the government must hold down the cost to the private citizen.

The committee print also retains, from the second emergency, the one-gun-per-month registration provision. Studies show that laws restricting multiple purchases or sales of firearms are designed to reduce the number of guns entering the illegal market and to stem the flow of firearms between states. Jurisdictions with weaker firearms laws may attract gun traffickers who make multiple purchases and resell the guns in jurisdictions with stronger firearms laws. Studies also show that handguns sold in multiple sales to the same individual purchaser are frequently used in crime. Three states, California, Maryland, and Virginia, have laws limiting firearm purchases or sales to one per month.

### Conclusion

The Committee believes that the above stated provisions in Bill 17-843 comply with the United States Supreme Court's decision in *District of Columbia v. Heller*, while at the same time allow the District to protect its citizens and maximize public safety with reasonable and sensible gun policy. The Committee recommends approval of Bill 17-843, the "Firearms Control Amendment Act of 2008" as amended.

## **II. LEGISLATIVE CHRONOLOGY**

June 26, 2008	United States Supreme Court decides <i>District of Columbia v. Heller</i> .
July 1, 2008	Bill 17-843, the "Firearms Control Amendment Act of 2008 is introduced by Councilmember Mendelson, and is co-introduced by Chairman Gray and Councilmembers Alexander, Barry, Bowser, Brown, Catania, Cheh, Evans, Graham, Schwartz, Thomas, and Wells.
July 2, 2008	Committee holds public oversight hearing on "The United States Supreme Court's decision in <i>District of Columbia v. Heller</i> ."
July 11, 2008	Notice of Intent to Act on Bill 17-843 is published in the <i>D.C. Register</i> .
July 15, 2008	Council unanimously adopts D.C. Act 17-422, the "Firearms Control Emergency Amendment Act of 2008."
August 1, 2008	Notice of Public Hearing is published in the <i>D.C. Register</i> .
August 22, 2008	Notice of a Second Public Hearing is published in the <i>D.C. Register</i> .
September 16, 2008	Council unanimously adopts D.C. Act 17-502, the "Second Firearms Control Emergency Amendment Act of 2008."
September 18, 2008	The Committee on Public Safety and the Judiciary holds a public hearing on Bill 17-843.



October 1, 2008      The Committee on Public Safety and the Judiciary holds a second public hearing on Bill 17-843.

October 7, 2008      Council unanimously adopts (on final reading) D.C. Act 17-536, the “Firearms Control Temporary Amendment Act of 2008.”

November 25, 2008    The Committee on Public Safety and the Judiciary marks-up Bill 17-843.

### III. POSITION OF THE EXECUTIVE

Peter Nickles, Attorney General for the District of Columbia, and Cathy Lanier, Chief of Police of the Metropolitan Police Department, testified on behalf of the Executive. The Executive supports Bill 17-843, as amended.

### IV. SUMMARY OF TESTIMONY

The Committee on Public Safety and the Judiciary held two public hearings on Bill 17-843. The first hearing was on Thursday, September 18, 2008 and the second hearing was on Wednesday, October 1, 2008. The testimony summarized below is from both hearings. In addition, the Committee received several written statements from individuals and organizations unable to testify during the September 18<sup>th</sup> hearing. These statements are summarized below and as well.

#### September 18, 2008

**David White, Public Witness**, testified that he supports less restrictive gun laws so that he can better protect himself and his family. He stated that he was pleased with the steps the Council had taken so far.

**Dick Anthony Heller, Public Witness**, testified that he supports less restrictive gun laws because criminals don’t follow laws, and since terrorists have weapons, citizens should have them as well in order to defend themselves.

**Ron Moten, Co-Founder, Peaceoholics**, testified in support of stricter gun laws. Mr. Moten stated that he is in favor of stricter penalties for persons who sell guns to children.

**Dane vonBreichenruchardt, President, U.S. Bill of Rights Foundation**, testified in support of less restrictive gun laws. Mr. vonBreichenruchardt stated that his views are similar to Mr. Heller and that he wants the Council to obey the U.S. Supreme Court’s decision in the *Heller* case.

**Robert Moore, Public Witness**, testified that he wanted to see the process to register long-arms made more convenient or abolished.

**Tim Little, Public Witness**, testified as to the problems he encountered with the registration process and urged MPD to consider a streamlined process. He also stated that he supports the actions the Council has taken to comply with *Heller*, especially the child access prevention provision.

**Deborah Jane Anderson, Public Witness**, testified that she supports less restrictive gun laws. Ms. Anderson stated that she has been a crime victim more than once, and for that reason wants the Council to pass gun laws that would allow all persons the right to carry their guns outside of the home.

**Mark Anderson, Public Witness**, testified that he supports less restrictive gun laws. Mr. Anderson stated that the Council should not make gun ownership overly inconvenient and expensive, and that safe storage provisions can not be adequately addressed through legislation.

**Amy McVey, Co-Founder and President, CapitalGunOwners.org**, testified that gun ownership does not make one a criminal, and that she supports less restrictive gun laws. Specifically, Ms McVey stated that she wants the law changed to allow open carry, and that she would like the firearm registration process streamlined.

**George Lyon, Co-Founder, CapitalGunOwners.org**, testified that he had a number of suggestions for the permanent legislation, including repealing the prohibition on defensive use of firearms by citizens, adopting gun safety programs for the public schools, adopting a nondiscretionary provision for licensing persons to carry handguns, streamlining the gun registration process, and repealing the limitation on non-lethal weapons.

**Paula Miller, CapitalGunOwners.org**, testified in support of less restrictive gun laws.

**Gillian St. Lawrence, CapitalGunOwners.org**, testified that she supports the Council's efforts to allow the registration of semiautomatic handguns, but that she would like to see other changes made to the law, namely streamlining the gun registration process.

**Ricardo Royal, National President, Community Association for Firearms Education**, testified the Committee should amend the law so that the District's transportation laws are in line with federal standards, and that the law should be strengthened regarding training requirements.

**J. Bradley Jansen, Director, Center for Financial Privacy and Human Rights**, testified that the Council must approach the gun control question as it would the rest of the enumerated rights, such as the right to freedom of speech, assembly, association, etc. He stated that failure to act appropriately may jeopardize home rule for the District.

**Richard Gardner, Attorney for Mr. Heller**, testified that he supports less restrictive gun laws and that the Council should fully comply with the *Heller* decision.

**Janae Grant, ANC Commissioner, 5A11**, submitted a written statement in general support of Bill 17-843. Ms. Grant suggested lengthen the number of days before a registrant can

register additional firearms, from 30 days to 90 days. She also supports ballistic testing, the safe storage provision, and training requirements.

**Alex Sutono**, submitted a written statement in support of allowing semiautomatic handguns to be registered in the District.

**Lee Foullon**, submitted a written statement in support of revising Bill 17-843 to permit the sale or transfer of Curio and Relic firearms.

**Jake McGuigan, Director of Government Relations, National Shooting Sports Foundation, Inc.**, submitted several statements and information papers. The National Shooting Sports Foundation does not support ballistic testing, microstamping, or one-gun-per-month laws.

October 1, 2008

**Joshua Horwitz, Executive Director, Educational Fund to Stop Gun Violence**, testified in support of Bill 17-843, with amendments. Specifically, Mr. Horwitz testified to the benefits of microstamping and why it augments traditional methods of ballistic identification. Mr. Horwitz stated that microstamping enhances traditional methods of ballistic identification because the intentional markings are designed to be stable and easily extractable.

**Juliet Leftwich, Legal Director, Legal Community Against Violence**, testified in support of Bill 17-843, with amendments. Ms. Leftwich testified on the benefits of registering firearms, licensing of gun owners, firearms safety training, better regulation of firearms dealers, safe storage – specifically child access prevention laws, and waiting periods. Ms. Leftwich suggested that the Committee amend Bill 17-843 so that the CAP provision applies to children under the age of 18, versus under the age of 16, as is in the emergency and temporary legislation.

**Brian Siebel, Senior Attorney, Brady Campaign to Prevent Gun Violence**, testified in support of Bill 17-843, with amendments. Mr. Siebel testified on the dangerousness of assault weapons, specifically how these weapons pose a threat to citizens, law enforcement, and homeland security. He also testified on the need to ban the .50 caliber BMG sniper rifle because of the huge risk this weapon poses to public safety.

**Daniel Webster, Co-Director, Johns Hopkins Center for Gun Policy and Research**, testified in support of Bill 17-843, with amendments. Mr. Webster testified that the Committee should amend Bill 17-843 to prohibit domestic violence offenders from being able to possess firearms, and that the bill should prohibit “junk guns” – such as Saturday night specials – because of the unique danger such weapons pose to the public.

**Peter Nickles, Acting Attorney General, District of Columbia**, testified in support of Bill 17-843, with amendments. Mr. Nickles testified that Bill 17-843 be amended to: (1) align the District’s transportation laws with federal standards; (2) provide for the revocation of firearms registrations for all person subject to a CPO; (3) clarify that public and private property owners in the District have the authority to prohibit the possession of firearms on their property; (4)

extend the provisions of the CAP law to other classes of individuals; and (5) strengthen penalties for possessing unlawful ammunition and illegally possessing firearms outside of a person's home.

**Cathy Lanier, Chief of Police, Metropolitan Police Department**, testified in support of Bill 17-843, with amendments. Chief Lanier testified that she believes that MPD should continue to perform ballistic testing on registered firearms, and that the CAP laws should be reinforced with an educational component. Further, Chief Lanier testified that the registration process for firearms is vital and enhances public safety, and that there would be real public safety benefits to requiring firearms to be re-registered.

## V. IMPACT ON EXISTING LAW

Bill 17-843 would amend the Firearms Control Regulations Act of 1975 effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code § 7-2501.01, *et seq.*) In understanding legislative intent, it is important to read as well this Committee's report on Bill 17-593, the "Inoperable Pistol Amendment Act of 2008." Bill 17-593 is being recommended together with Bill 17-843, both dealing with the regulation of firearms in the District.

## VI. FISCAL IMPACT

The Committee has requested a Fiscal Impact Statement from the Chief Financial Officer. Attached, however, is the CFO's fiscal impact statement on the Second Firearms Control Emergency Amendment Act -- an emergency version of Bill 17-843. The Committee believes that funds are sufficient in the FY 2009 budget and the proposed FY 2010 through FY 2013 budget and financial plan to implement Bill 17-843.

## VII. SECTION-BY-SECTION ANALYSIS

Section 1 states the short title of Bill 17-843.

Section 2

- (a) amends definitions.
- (1) Revises "firearm"; see Bill 17-593.
- (2) Adds "intrafamily offense."
- (3) Revises "machine gun."
- (4) Revises "pistol" consistent with the Committee's work on Bill 17-593.
- (5) Revises "shotgun" to allow the same barrel length (18 inches) as permitted under federal law. By requiring a 20 inch barrel, the District has been out of step with common practice.
- (6) Adds "assault weapon," "magazine," "capacity," ".50 BMG rifle," and ".50 BMG Cartridge."

(b)(1) Revises transport requirements to be consistent with the provisions in D.C. Code Title 22, Chapter 45.

(2) Adds provision allowing temporary possession within a home by another person, for immediate self-defense, if the other person within the home is not otherwise prohibited from possessing firearms. The reason for this provision is to allow a person within the home, who is not the registrant of the firearm, to use the firearm for self-defense.

(c) Revises 7-2502.02 to permit the registration of handguns, pursuant to Heller, and to prohibit the registration of unsafe firearms, assault weapons, and .50 BMG rifles.

(d)(1) Changes from 5 years to 10 years the prohibition on registration of firearms various prohibited classes of persons, and adds persons convicted of “intrafamily offense” being prohibited from registering firearms. Adds mental disorder within immediately preceding 5 years as a disqualification to registration. Revises test applicants must take to emphasize familiarity with use, handling, and storage. Adds as a disqualifier to registration/possession the registrant having been the subject of a CPO.

(2) Requires Chief of Police to conduct a ballistics test for each pistol being registered, limits registration to one pistol per registrant per 30 day period, and authorizes the Chief to establish a reasonable fee.

(e)(1) The Chief may require any person applying for a registration certificate to be fingerprinted if, in his judgment, this is necessary to conduct an efficient and adequate investigation into the matters described in § 7-2502.03. Any person who has been fingerprinted by the Chief within 6 years (changing from 5 years) prior to submitting the application need not, in the Chief's discretion, be fingerprinted again if he offers other satisfactory proof of identity.

(2) Revises transport requirements to be consistent with the provisions in § 22-4501 *et seq.*

(f) Authorizes the Chief to offer a discount on registration fees of up to 50% for any registrant who has completed a course in firearms safety and proficiency. The Committee wants the public policy to encourage gun owners to be knowledgeable in firearms safety and proficient in their use. Thus, an earlier subsection ((d)(1)) revises the emphasis of the registration test, and this subsection allows a small financial incentive for greater training.

(g) Provides for re-registration, by requiring that registration certificates expire three years from the date of issuance. Although MPD shall mail renewal notices to registrants, the requirement is analogous to motor vehicle registration: the duty to renew is solely on the registrant regardless of what MPD or the U.S. Mail does. This subsection also requires that all existing registrations (pre-*Heller*) be re-registered within three years. In this way, the MPD shall have on up-to-date registration database.

(h) This subsection amends the existing law to establish a two-tier system of penalties for failure to report a change of address or a lost, missing, or stolen firearm. The first offense is a civil fine of \$500. The second offense shall result in revocation of the registration.

- (i) Requires microstamping on all semiautomatic pistols sold after December 31, 2010.
- (j) Prohibits unsafe firearms (a defined term) from being brought into the District or registered after December 31, 2008. A felony penalty attaches to this provision.
- (k) Prohibits possession of large capacity ammunition feeding devices.
- (l) Revises the safe storage requirement to be a child access prevention law, consistent with many other states. A felony penalty attaches is violation leads to injury or death.
- (m) Codifies right of the District government and private property owners to prohibit or restrict the possession of firearms on their property. Although there are few instances where this issue could arise, given the restrictions on carrying firearms in Title 22 as amended, on situation could be a residential landlord who does not want his tenants carrying firearms within their apartments.
- (n) Amends D.C. Code § 7-2551.01 to conform the definition of “assault weapon” to the new definition in § 7-2501.01.

Section 3      Savings clause.

Section 4      Fiscal impact statement.

Section 5      Effective date.

## **VIII. COMMITTEE ACTION**

On November 25, 2008, the Committee on Public Safety and the Judiciary met to consider Bill 17-843, the “Firearms Registration Amendment Act of 2008.” The meeting was called to order at 10:50 a.m., and Bill 17-843 was number seven on the agenda. After ascertaining a quorum (Chairman Mendelson and Councilmembers Alexander, Bowser, Cheh, and Evans present), he moved the print with leave for technical changes. During the opportunity for discussion, Councilmember Cheh raised concerns with provisions dealing with public and private property owners, training, reporting lost or stolen firearms, and persons with mental illness being prohibited from registering. Chairman Mendelson agreed to work with Councilmember Cheh on amendments to the print for first reading. After the opportunity for discussion, the vote on the print was unanimous (Chairman Mendelson and Councilmembers Alexander, Bowser, Cheh, and Evans voting aye). He then moved the report with leave for staff to make technical and editorial changes. After opportunity for discussion, the vote was unanimous (Chairman Mendelson and Councilmembers Alexander, Bowser, Cheh, and Evans voting aye). The meeting adjourned at 11:53 a.m.

## **IX. ATTACHMENTS**

1. Bill 17-843 as introduced.
2. Selected testimony and comments.

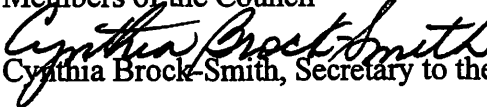


3. Fiscal Impact Statement for Second Emergency.
4. Committee Print for Bill 17-843.

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**1350 Pennsylvania Avenue, N.W.**  
**Washington, D.C. 20004**

**Memorandum**

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To: Members of the Council  
From:   
Cynthia Brock-Smith, Secretary to the Council  
Date: July 7, 2008  
Subject: Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Legislative Meeting on Tuesday, July 01, 2008. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Firearms Control Amendment Act of 2008", B17-0843

INTRODUCED BY: Councilmembers Mendelson, Evans, Schwartz,  
Catania, Brown, Graham, Cheh, Thomas, Wells,  
Barry, Bowser, Alexander and Chairman Gray


The Chairman is referring this legislation to the Committee on Public Safety and the Judiciary.

Attachment

cc: General Counsel  
Budget Director  
Legislative Services

  
Councilmember Phil Mendelson

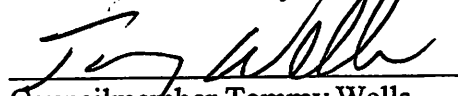
  
Councilmember Carol Schwartz

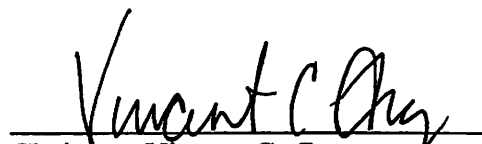
  
Councilmember Yvette Alexander

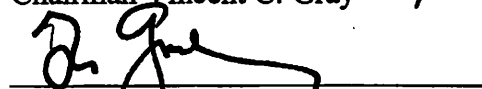
  
Chairman Muriel Bowser

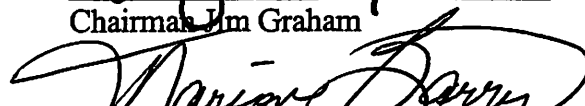
  
Councilmember Jack Evans

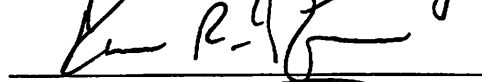
  
Councilmember Mary Cheh

  
Councilmember Tommy Wells

  
Chairman Vincent C. Gray

  
Chairman Jim Graham

  
Councilmember Marion Barry

  
Councilmember Kwame Brown

  
Councilmember Harry Thomas, Jr.

  
Councilmember David Catania

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Vincent Gray, Councilmembers Phil Mendelson, Carol Schwartz, Jim Graham  
Yvette Alexander Marion Barry, Muriel Bowser, Jack Evans, Harry Thomas, Jr., Mary Cheh, and  
David Catania introduced the following bill, which was referred to the Committee on

To amend the Firearms Control Regulations Act of 1975 to repeal the prohibition on the  
registration of pistols, to require a ballistics record for each registered pistol, to require a  
waiting period when registering a firearm, and to establish a self-defense exception to the  
requirement for safe storage of firearms in the home.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this  
Act may be cited as the "Firearms Control Amendment Act of 2008".

Section 2. The Firearms Control Regulations Act of 1975, effective September 24, 1976  
(D.C. Law 1-85; D.C. Official Code § 7-2501.01, *et seq.*) is amended as follows:

(a) Section 202 (D.C. Official Code § 7-2502.02) is amended as follows:

(1) Subsection (a)(4) is repealed; and

(2) Subsection (b) is repealed.

(b) A new section 203a is added to read as follows:

“203a. Ballistics Record.

“For each pistol subject to an application for a registration certificate the  
Chief shall obtain an accurate ballistics print.”.

(c) Section 206(a) (D.C. Official Code § 7-2502.06(a)) is amended to read as  
follows:

“(a) An application for a registration certificate shall be filed, and a  
registration certificate issued, prior to a person or organization having possession of the firearm  
in the District. The Chief may authorize possession of a firearm without a registration certificate  
having been issued only if an application for a registration certificate has been filed and such  
other requirements have been met as the Chief prescribes by regulation.”.

(d) Section 702 (D.C. Official Code § 7-2507.02) is amended to read as follows:

“Sec. 702. Except for law enforcement personnel described in section  
201(b)(1), each registrant shall keep any firearm in his or her possession unloaded and either  
disassembled or bound by a trigger lock or similar device unless such firearm is kept at his or her  
place of business, or while being used for lawful recreational purposes within the District of  
Columbia, or for the purpose of immediate self-defense in his or her home.”.

Sec. 3. Fiscal Impact Statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1974 (87 Stat. 813, D.C. Official Code § 1-206(02(c)(3))).

Section 4. Effective Date.

This Act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.



Testimony of  
**Joshua Horwitz**  
Executive Director

***Public Hearing on the  
"Firearms Control Amendment Act of 2008"***

Committee on Public Safety and the Judiciary  
Council of the District of Columbia

October 1, 2008

John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004



Good morning, Chairman Mendelson and members of the Committee on Public Safety and the Judiciary. I appreciate this opportunity to speak to you today on the critical issue of firearm laws in the District of Columbia.

My name is Joshua Horwitz and I am the Executive Director of the Educational Fund to Stop Gun Violence (Ed Fund). The Ed Fund is a national non-profit organization in Washington, D.C., that seeks to secure freedom from gun violence through research, strategic engagement and effective policy advocacy.

I would like to focus my remarks today on the topic of comprehensive ballistics identification—specifically on a technology called “microstamping.” We recommend that the District of Columbia require all new semiautomatic pistols sold in the city to be microstamped starting in 2011. This would assist law enforcement in identifying gun traffickers, discourage straw purchasers, and help solve gun crimes. Equally important, microstamping is an inexpensive technology that requires no new databases and produces no burden for law-abiding gun owners. The technology is utilized only when a gun is used in a crime.

Currently deployed ballistics technology focuses on the tool marks on the interior surface of a firearm that are transferred from the firearm to an expended cartridge during the firing process. These unintentional tool marks are a by-product of the manufacturing process. For over 100 years, highly trained firearm examiners examined these marks by hand to make matches between a cartridge(s) found at a crime scene and a recovered firearm. Starting about ten years ago, the federal government created the National Integrated Ballistic Information Network (NIBIN) program to allow for computer-assisted searches of digital images of cartridges found at crime scenes.

NIBIN, however, relies on the same unintentional markings used by firearm examiners and cannot lead investigators directly to a specific firearm and its serial number, unless that weapon is eventually recovered. A firearm serial number is a key investigative tool because law enforcement uses it to trace a weapon back to its original seller and purchaser.

Microstamping represents an evolution in ballistic identification because it can identify the serial number of a firearm directly from an expended cartridge case found at a crime scene. Originally created in the 1990s by Todd Lizotte and Orest Ohar, microstamping uses precise laser technology to engrave intentional microscopic markings on the internal mechanisms of a semiautomatic pistol (e.g., the breech face and the tip of the firing pin). When the handgun is fired, these engravings are stamped onto the cartridge—identifying essential information including the make, model and serial number of the weapon in the form of alphanumeric and geometric codes. Information extracted from these codes can be used to trace a firearm used in a violent crime, even if the crime gun itself is never recovered.

The elegance of the technology is that it uses the same natural forces that create the unintentional markings traditionally analyzed by firearm examiners. By *intentionally* stamping a code on cartridges, however, microstamp-equipped firearms provide investigators with more deliberate information than unintentional marks ever could. The goal of microstamping is to identify a firearm the *first* time it is used to commit a crime.

That's an important goal in a country where approximately 40% of homicide cases go unsolved.<sup>1</sup> At many shooting scenes, a crime gun is never recovered, and far too often NIBIN fails to exploit ballistic evidence that *is* recovered (i.e., expended cartridge casings). For example, the city of Boston reported a total of 1,301 crimes involving shootings in 2006. Investigators at 636 of these crime scenes recovered only shell casings, and not the crime gun itself.<sup>2</sup> In cases such as these, microstamping can provide essential leads to investigators.

With any new, innovative technology, there are going to be questions concerning the effectiveness and durability of the process and microstamping has not been immune to naysayers. One line of criticism has focused on whether the technology can withstand wear and tear under the violent conditions that exist within the chamber of a firearm. In order to

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<sup>1</sup> *New York Times* Editorial, "A Crime-Fighting Opportunity," February 15, 2008, <http://www.nytimes.com/2008/02/15/opinion/15fri3.html>

<sup>2</sup> Boston Police Department

answer such claims, the technology has undergone numerous, rigorous tests with firearms including the Colt .45 (1911), S&W 4006, Ruger Mark III, SIG P229, AR-15, and AK-47.<sup>3</sup>

A series of studies conducted by microstamping's inventors have shown that firearms utilizing the latest generation of the technology consistently produce identifiable codes even after thousands of rounds of firing. For example, in 2007 Lizotte and Ohar fired over 2,500 rounds from a microstamped Smith and Wesson .40 caliber semiautomatic handgun using five different brands of ammunition. The results were impressive, with all eight digits of the alphanumeric code legible 97% of the time using both optical microscopy and scanning electron microscopy and with breech face markings successfully transferred to cartridge casings 96% of the time.<sup>4</sup> Taking firing pin and breech face markings together, all eight digits were identifiable in every single case.

Lizotte and Ohar were subsequently able to fire the same Smith & Wesson handgun in excess of 5,000 rounds and still produce identifiable marks. They also recently tested a used .45 Colt semi-automatic pistol with over 1,500 rounds and achieved identifiable marks over 95% of the time using optical microscopy.<sup>5</sup>

Independent forensic scientist Lucien Haag has also tested the durability of microstamping and found that even with the firearms involved operating under extremely high pressure, the microstamped impressions made on cartridges were still visible even after thousands of rounds were fired.<sup>6</sup>

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<sup>3</sup> Todd E. Lizotte and Orest Ohar, "Forensic Firearm Identification of Semiautomatic Handguns Using Laser Formed Microstamping Elements," Peer-reviewed paper presented at the 2008 SPIE (The International Society for Optical Engineering) Annual Optics and Technology Conference, San Diego, California, September 3, 2008, <http://www.csgv.org/atf/cf/%7B79FD0842-518D-42AC-8228-AE59B7990689%7D/Forensic%20Firearm%20Identification%20of%20Semiautomatic%20Handguns%20-%20Lizotte.pdf>

<sup>4</sup> Press Release from NanoMark Technologies, "New Test Affirms Validity of Microstamping Technology," May 24, 2007, <http://www.csgv.org/atf/cf/%7B79FD0842-518D-42AC-8228-AE59B7990689%7D/LIZOTTE%20TEST%20RELEASE%205-25-07.PDF>

<sup>5</sup> Lizotte and Ohar, "Forensic Firearm Identification of Semiautomatic Handguns Using Laser Formed Microstamping Elements"

<sup>6</sup> Lucien Haag, "Ballistic ID Tagging and Microstamping—Performance in Practice," Presentation before Third Meeting of the Committee on Assessing the Feasibility, Accuracy, and Technical Capability of a National Ballistics Database, December 9, 2004

These endurance challenges achieved impressive results even though they test-fired far more rounds than would be expended by the typical crime gun. In reality, semiautomatic handguns have the shortest median “time-to-crime” of any firearm type<sup>7</sup> and crime guns are frequently recovered with fewer than 20 total rounds fired.<sup>8</sup>

Additionally, microstamped engravings on the firing pin and breech face of a handgun contain several “counter-measures” in order to prevent against tampering. These include redundant gear and/or radial marks on the firing pin, as well as marks on the breech face. Simply eradicating any one set of these marks (which is no easy feat for the common criminal) is insufficient to defeat the technology.

Microstamped semiautomatic pistols would also serve as a deterrent to illegal gun trafficking. First, the technology would help to curb “straw purchases.” In a straw purchase, a prohibited purchaser recruits an individual(s) with a clean criminal record to pass a background check and purchase firearms for him/her. Microstamping would allow police to automatically link a shell casing found at a crime scene to this original purchaser. Straw purchasers would be far less likely to purchase firearms for convicted felons and other prohibited buyers if they believed those guns could be easily traced back to them after being used in crimes. Second, microstamping would help identify traffickers by providing more crime gun trace data for law enforcement to analyze.

I would also stress the ease with which microstamping technology can be integrated into the District’s current ballistics systems. Microstamping does not require the creation of *any* new database of gun owners or ballistics information. It simply improves the usefulness of an existing tracing system by adding more information to that system. Microstamping does not collect any new personal information from gun owners or limit gun ownership in any way, and therefore has no Second Amendment implications whatsoever.

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<sup>7</sup> Department of Justice, Bureau of Alcohol, Tobacco and Firearms, “Crime Gun Trace Reports (2000): National Report,” July 2002, p. 32, <http://www.atf.gov/firearms/ycgii/2000/>

<sup>8</sup> Fox Butterfield, “Sniper Case Fuels a Debate Over Firearm Fingerprinting,” *New York Times*, October 18, 2002, <http://query.nytimes.com/gst/fullpage.html?res=9C02E0DE133DF93BA25753C1A9649C8B63&n=Top/Reference/Times%20Topics/Subjects/I/Identification%20Devices>

The cost of implementing the technology is minimal as well. Laser Light Technologies, Inc., a laser micromachining and engraving company based in Missouri, has priced the microstamp engraving process at a maximum of \$6.00 per handgun. As an additional benefit to manufacturers, the patent holders of the technology have announced they will provide a royalty-free license for the microstamping of semiautomatic handguns sold for civilian use in the United States and its territories.

Enthusiasm for the technology is spreading rapidly across the country. On October 13, 2007, California Governor Arnold Schwarzenegger signed first-of-its-kind microstamping legislation into law, mandating the microstamping of all new models of semiautomatic handgun models sold in the state beginning in 2010. The legislation was publicly supported by 65 police chiefs and sheriffs across California, including L.A. County Sheriff Lee Baca who stated, "The Los Angeles County Sheriff's Department Homicide Bureau has hundreds of unsolved cases where the only evidence left at the scene of the crime were expended bullet casings. If these casings had imprinted information on them from the firearm, our investigators would have an exceptional chance of solving these heinous crimes."<sup>9</sup> The California Police Chiefs Association (CPCA) and the Peace Officers Research Association of California (PORAC) also supported the bill.

Following the example set by California, several other states are now considering microstamping legislation, including Wisconsin, New Jersey, Illinois, and Connecticut and New York (where a bill passed the state assembly earlier this year). Microstamping bills have also been introduced in the U.S. Senate and House of Representatives by Senator Edward M. Kennedy and Representative Xavier Becerra, respectively.

As this committee works to change the District's firearms laws in the wake of the Supreme Court's decision in *District of Columbia v. Heller*, I would strongly advise you to consider the multiple benefits of microstamping. It is a forward-thinking technology that holds

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<sup>9</sup> Press Release from Assemblyman Mike Feuer, "Gun Microstamping Demonstration Conducted Today," August 14, 2007, <http://democrats.assembly.ca.gov/members/a42/newsroom/20070814AD42PR01.htm>

tremendous promise to augment the city's crime-solving capabilities and bring peace and justice to victims and survivors of gun violence.

I thank you for conducting this hearing for the benefit of your constituents and look forward to your questions.





**Legal Community Against Violence**

expertise, information & advocacy to end gun violence

**Testimony of  
Juliet A. Leftwich  
Legal Director  
Legal Community Against Violence**

**Bill 17-843  
“Firearms Control Amendment Act of 2008”**

**Committee on Public Safety and the Judiciary  
Council of the District of Columbia  
Phil Mendelson, Chairperson**

**October 1, 2008**

**John A. Wilson Building  
1350 Pennsylvania Ave., N.W.  
Washington, D.C. 20004**

Good morning. My name is Juliet Leftwich and I am the Legal Director of Legal Community Against Violence (LCAV), a national law center formed in the wake of an assault weapon massacre at a San Francisco law firm in 1993. We provide free legal assistance to state and local governments seeking to adopt or defend laws to reduce gun violence. We also track all federal, all state and many local gun laws. In addition, we engage in educational outreach and advocacy, producing reports, analyses and model laws.<sup>1</sup> LCAV's website, [www.lcav.org](http://www.lcav.org), is the most comprehensive resource on U.S. firearms laws in either print or electronic form.

LCAV has helped many state and local policymakers develop and draft strong, legally defensible laws to reduce firearm-related deaths and injuries. I'm pleased to be here today to provide our recommendations regarding the ways Washington, D.C. can strengthen its gun laws in the aftermath of the U.S. Supreme Court's decision in *District of Columbia v. Heller*.

Although I support each of the ideas discussed by the other expert witnesses on this panel today, my testimony will focus on laws relating to registration of firearms, licensing of gun owners/firearms safety training, firearms dealers, safe storage and waiting periods.

### Registration of Firearms

Strong registration laws are the cornerstone of responsible gun policy. These laws are critical because they

- Furnish law enforcement with essential information about firearm ownership, facilitating fast and reliable tracing of crime guns;
- Protect law enforcement officers responding to calls for assistance (e.g., in domestic violence incidents) by allowing the officers to determine, in advance, whether the individuals involved possess firearms;
- Facilitate the return of lost or stolen firearms to their lawful owners;
- Reduce illegal guns sales and possession by ensuring, through periodic background checks, that all registered owners are eligible to possess firearms under applicable federal, state and local law; and
- Permit law enforcement to charge an individual with a crime if he or she is in possession of an unregistered gun, and to seize the unregistered weapon.

Opinion polls show overwhelming public support for registration laws. A 2001 national poll showed 83% of respondents, including 72% of gun owners, favor registration for newly-purchased handguns.<sup>2</sup>

Although the District of Columbia currently has a firearm registration system in place, registration is only required on a one-time basis. As a result, persons who initially pass a

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<sup>1</sup> See, e.g., Legal Community Against Violence, *Regulating Guns in America: An Evaluation and Comparative Analysis of Federal, State and Selected Local Gun Laws* (2d ed. 2008).

<sup>2</sup> Lake, Snell, Perry & Associates, Inc. Poll, *Educational Fund to Stop Gun Violence* (May 15-21, 2001).

background check may subsequently become ineligible to possess firearms (e.g., because of a criminal conviction), yet remain in possession of those firearms.

The most important way to strengthen the District's registration laws would be to require that registration be renewed annually after the owner undergoes a background check. This would help ensure that persons who have fallen into a prohibited class do not continue to possess firearms. It would also increase gun owner accountability and responsibility by requiring gun owners to account for their firearms on a yearly basis. Annual renewal of registration would not impose an undue burden on gun owners – it could be completed through the mail at a reasonable cost.

This recommendation is consistent with the Supreme Court's ruling in the *Heller* decision. In that decision, the Court narrowly held that the Second Amendment guarantees the right of individuals to possess handguns in the home for self-defense. Registration laws do not interfere with that right.

A variety of registration laws have been adopted by state and local governments throughout the nation, including Hawaii, California, Michigan,<sup>3</sup> Chicago, Cleveland, New York City and Omaha.<sup>4</sup>

#### Licensing Gun Owners/Firearms Owner Safety Training

Laws requiring gun owners to obtain a license (or permit) and to undergo safety training have two primary goals: 1) to reduce the number of unintentional shootings by ensuring that gun owners know how to safely use and store firearms; and 2) to increase compliance with existing firearms laws by requiring gun owners to demonstrate knowledge of those laws.

Americans strongly support licensing laws. A nationwide poll conducted in 2001 found that 85% of respondents – including 73% of gun owners – favored laws requiring purchasers to obtain a permit before buying a handgun.<sup>5</sup>

Although the District does not currently require gun owners to obtain a separate license, the District's registration laws contain some license-like provisions. Specifically, those laws require an applicant for a registration certificate to “demonstrate satisfactorily a knowledge of the laws of the District of Columbia pertaining to firearms and the safe and

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<sup>3</sup> Mich. Comp. Laws § 28.429. While Michigan does not require registration *per se*, it does require persons acquiring handguns to present the handgun to local law enforcement for a safety inspection. If the person presenting the handgun is eligible to possess it, a certificate of inspection will be issued reflecting his or her name, age, address, description and signature, as well as a full description of the handgun. Copies of the certificate are kept by state and local law enforcement, thereby creating a record of all legally acquired handguns possessed in the state and their owners.

<sup>4</sup> See Legal Community Against Violence, *supra* note 1, at 190-195.

<sup>5</sup> Lake, Snell, Perry & Associates, Inc., *supra* note 2.

responsible use of the same in accordance with tests and standards prescribed by the Chief.”<sup>6</sup>

The District’s laws could be strengthened through the enactment of either a separate licensing law or an amendment to the existing registration provisions requiring applicants to successfully complete a firearms safety training course. We recommend that the course include classroom instruction on the safe handling, use and storage of firearms, and on federal and District laws pertaining to gun sales, possession, transportation and self-defense use. The course should also include live firing instruction to ensure that the applicant knows how to safely fire the weapon. Applicants should be required to pass written and hands-on tests prior to completing the course.

Reasonable licensing/firearms safety training laws have been adopted widely by state and local governments throughout the United States,<sup>7</sup> and do not violate the *Heller* decision.

Licensing laws are most effective when combined with registration laws (discussed above). A 2001 study analyzing the firearm tracing data of crime guns recovered in 25 U.S. cities revealed that states with some form of both registration and licensing systems have greater success keeping firearms initially sold by dealers in the state from being recovered in crimes than states without such systems in place.<sup>8</sup> This suggests that licensing and registration laws may make it more difficult for criminals, juveniles and other prohibited purchasers to obtain guns.

An Opinion Research Corporation International poll in 2001, found that 82% of the respondents supported laws requiring the licensing and registration of handguns.<sup>9</sup> A nationwide poll conducted in May of 2001 found that 70% of the respondents mistakenly believed that a system of licensing and registration already exists.<sup>10</sup>

### Firearms Dealers

Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) records from November 2007 indicate that 5 firearms dealers operated in the District at that time.<sup>11</sup> We would anticipate that that number would grow in response to the *Heller* decision.

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<sup>6</sup> D.C. Code Ann. § 7-2502.03(a)(10).

<sup>7</sup> See Legal Community Against Violence, *supra* note 1, at 178-186.

<sup>8</sup> Daniel W. Webster et al., *Relationship Between Licensing, Registration, and Other Gun Sales Laws and the Source State of Crime Guns*, 7 *Inj. Prevention* 184, 188-89 (2001). The study included jurisdictions with concealed carry permits and dealer sales reporting, which have elements of licensing or registration but are not comprehensive licensing or registration systems.

<sup>9</sup> Lois Hess, Editorial, *Bush Undermining Gun Control Laws*, *Balt. Sun*, July 31, 2001, at 11A, available at <http://www.commondreams.org/views01/0731-03.htm>.

<sup>10</sup> Lake, Snell, Perry & Associates, Inc., *supra* note 2.

<sup>11</sup> Bureau of Alcohol, Tobacco, Firearms & Explosives, U.S. Department of Justice, *Federal Firearms Licensee List (Class 01 Dealers)* (report issued Nov. 16, 2007).

It is very important that the District regulate dealers because so little regulation exists at the federal level, and because dealers are a significant source of crime guns nationwide. Current federal dealer regulations – and the enforcement of those regulations – are insufficient to ensure that the public is safe from unscrupulous dealers. In June of 2000, ATF issued a comprehensive report of firearms trafficking in this country. That report analyzed 1,530 trafficking investigations during the period July 1996 through December 1998, involving more than 84,000 diverted firearms.<sup>12</sup> ATF found that firearms dealers were associated with the largest number of trafficked guns – over 40,000 – and concluded that the fact that dealers have “access to large numbers of firearms makes them a particular threat to public safety when they fail to comply with the law.”<sup>13</sup>

Moreover, a 2004 report of the U.S. Department of Justice Office of the Inspector General found that ATF’s compliance inspections of firearms dealers are “infrequent and of inconsistent quality, and follow-up inspections and adverse actions have been sporadic,” even where numerous or serious violations were found.<sup>14</sup> Another study found that in 2000-2002, ATF prosecuted only 88 corrupt gun dealers nationwide.<sup>15</sup>

The District already regulates firearms dealers to some extent. Existing District laws could be significantly strengthened, however, by requiring dealers to:

- Conduct employee background checks (currently, there is no way for a dealer to know whether his/her employees are prohibited from possessing firearms);
- Immediately report the loss/theft of all firearms or ammunition;
- Conduct an annual inventory of all firearms and ammunition and provide a sworn affidavit with the inventory list to the Police Department;
- Videotape all firearm sales transactions;
- Install burglar alarms on their premises;
- Post a conspicuous notice advising customers of the District’s safe storage laws, and that background checks are required for all gun transfers; and
- Sell a trigger lock or other locking device with each firearm (ideally the law would require that the locking device be on the roster of devices approved by California, Maryland or Massachusetts, since the quality of locking devices varies greatly).

Laws regulating firearms dealers are consistent with the Second Amendment. In fact, the *Heller* decision explicitly sanctioned laws imposing conditions on the commercial sale of firearms.<sup>16</sup>

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<sup>12</sup> Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers* ix (June 2000).

<sup>13</sup> *Id.* at x.

<sup>14</sup> Office of the Inspector General, Evaluation and Inspections Division, U.S. Department of Justice, *Inspection of Firearms Dealers by the Bureau of Alcohol, Tobacco, Firearms and Explosives* i (July 2004).

<sup>15</sup> Americans for Gun Safety Foundation, *The Enforcement Gap: Federal Gun Laws Ignored* 4 (May 2003).

<sup>16</sup> *District of Columbia v. Heller*, 128 S. Ct. 2783, 2817 (2008).

Many state and local laws throughout the United States regulate firearms dealers.<sup>17</sup>

### Safe Storage Laws

Researchers have found that millions of children live in homes with easily accessible guns. A 2000 study of firearm storage patterns in U.S. homes found that “[o]f the homes with children and firearms, 55% were reported to have 1 or more firearms in an unlocked place,” and 43% reported keeping guns without a trigger lock in an unlocked place.<sup>18</sup> A 2005 study on adult firearm storage practices in U.S. homes found that over 1.69 million children and youth under age 18 are living in homes with loaded and unlocked firearms.<sup>19</sup>

The presence of unlocked guns in the home increases the risk of both accidental gun injuries and intentional shootings. One study found that more than 75% of the guns used in youth suicide attempts and unintentional injuries were stored in the residence of the victim, a relative, or a friend.<sup>20</sup> At least two studies have found that the risk of suicide increases in homes where guns are kept loaded and/or unlocked.<sup>21</sup>

In October of 2000, the U.S. Secret Service published a study of 37 school shootings in 26 states. That study found that in more than 65% of the cases, the attacker got the gun from his or her own home or that of a relative.<sup>22</sup>

Daniel Webster, another expert on this panel, has also provided the Committee with citations to several studies demonstrating that safe storage laws, also known as Child Access Prevention (CAP) laws, help prevent unintentional injuries to children.<sup>23</sup>

The Second Emergency Legislation enacted by the District requires individuals to store loaded guns safely if they know or should know that a child 15 years of age or younger might gain access to those weapons.

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<sup>17</sup> See Legal Community Against Violence, *supra* note 1, at 149-159.

<sup>18</sup> Mark A. Schuster et al., *Firearm Storage Patterns in U.S. Homes with Children*, 90 Am. J. Pub. Health 588, 590 (Apr. 2000).

<sup>19</sup> Catherine A. Okoro et al., *Prevalence of Household Firearms and Firearm-Storage Practices in the 50 States and the District of Columbia: Findings from the Behavioral Risk Factor Surveillance System, 2002*, 116 Pediatrics e370, e371-e372 (Sept. 2005), at <http://pediatrics.aappublications.org/cgi/content/full/116/3/e370>.

<sup>20</sup> David C. Grossman, Donald T. Reay & Stephanie A. Baker, *Self-Inflicted and Unintentional Firearm Injuries Among Children and Adolescents: The Source of the Firearm*, 153 Arch. Pediatr. Adolesc. Med. 875, 875 (Aug. 1999).

<sup>21</sup> Matthew Miller & David Hemenway, *The Relationship Between Firearms and Suicide: A Review of the Literature*, 4 Aggression & Violent Behavior 59, 62-65 (1999) (summarizing the findings of multiple studies).

<sup>22</sup> United States Secret Service, U.S. Department of the Treasury, *An Interim Report on the Prevention of Targeted Violence in Schools* 6 (Oct. 2000).

<sup>23</sup> See, e.g., Peter Cummings et al., *State Gun Safe Storage Laws and Child Mortality Due to Firearms*, 278 JAMA 1084, 1084 (Oct. 1997) (finding that in twelve states where CAP laws had been in effect for at least one year, unintentional firearm deaths fell by 23% from 1990-94 among children under 15 years of age).

The District could significantly strengthen its CAP law by making two changes. First, we recommend that the law apply to all firearms – loaded or unloaded – because even an unloaded gun in the hands of a child is extremely dangerous. Second, the law should apply to children who are under the age of 18 (rather than those 15 years of age and under), because older teenagers are in a particularly high risk age group for gun violence.<sup>24</sup>

Laws requiring that firearms be stored safely do not violate the Second Amendment. In fact, in *Heller*, the Supreme Court stated that its decision should not be read to suggest “the invalidity of laws regulating the storage of firearms to prevent accidents.”<sup>25</sup> The District’s safe storage law is consistent with *Heller* because it allows gun owners, as one of the storage options, to carry their guns on their person or within such close proximity that they can readily retrieve and use them as if the guns were carried on their person. Thus, the law allows for guns to be used in self-defense.

More than two dozen states have enacted laws to help keep guns out of the hands of children.<sup>26</sup>

### Waiting Periods

Laws imposing waiting periods require that a certain number of days elapse between the time a firearm is purchased and is physically transferred to the purchaser. The purpose of a waiting period is to: 1) give law enforcement officials sufficient time to perform a background check; and 2) provide a “cooling off” period to help guard against impulsive acts of violence.

Washington, D.C. currently has a 48-hour waiting period.<sup>27</sup> We recommend that this waiting period be extended (e.g., for a period of at least 5 days). Reasonable waiting periods do not violate the Second Amendment.

Twelve states have enacted waiting periods that apply to the purchase of some or all firearms. Those waiting periods range in length from 24 hours (for the sale of long guns in Illinois) to 14 days (for the sale of all firearms in Hawaii).<sup>28</sup>

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<sup>24</sup> In 2005, 2,623 teens ages 15 through 19 were killed with firearms. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, Web-Based Injury Statistics Query & Reporting System (WISQARS), *WISQARS Injury Mortality Reports, 1999-2005* (2008), at [http://webappa.cdc.gov/sasweb/ncipc/mortrate10\\_sy.html](http://webappa.cdc.gov/sasweb/ncipc/mortrate10_sy.html).

<sup>25</sup> *District of Columbia v. Heller*, *supra* note 16, at 2820.

<sup>26</sup> See Legal Community Against Violence, *supra* note 1, at 234-240.

<sup>27</sup> D.C. Code Ann. § 22-4508.

<sup>28</sup> See Legal Community Against Violence, *supra* note 1, at 134-138.

## Conclusion

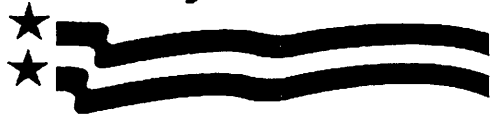
LCAV applauds Washington, D.C. for its long history of leadership in the important and challenging area of gun violence prevention. We believe the District has a great opportunity here – to look at its laws with a fresh eye, and to enact strong, legally defensible laws to protect those who live and work in and visit our nation's Capitol.

LCAV knows that policymakers across the country will be looking to the laws the District enacts as models for their own legislation. We pledge to assist the District in any way we can as it moves forward during this process.

Thank you very much for allowing me to address you today.



# Brady Center



## To Prevent Gun Violence

**Testimony of Brian J. Siebel  
Senior Attorney  
Brady Center to Prevent Gun Violence  
Before the Council of the District of Columbia  
October 1, 2008**

Thank you, Chairman Mendelson and other members of the Council, for inviting the Brady Center to Prevent Gun Violence to speak at this important committee hearing.

The Brady Center to Prevent Gun Violence and the Brady Campaign to Prevent Gun Violence are the nation's largest organizations working for sensible gun policies. The Legal Action Project of the Brady Center represents victims of gun violence and defends gun laws in the courts.

In addition to the other measures being suggested here today, which we support, the Brady Center and Brady Campaign strongly urge the Council to pass an assault weapons ban, a ban on .50 caliber sniper rifles, and retain its recently-passed ban on high-capacity ammunition magazines, as part of its process of strengthening the District's gun laws in light of the *Heller* decision.

### **The Need for An Assault Weapons Ban**

Assault weapons had been banned for more than 30 years under the broader D.C. ban on all semiautomatic weapons. However, now that that ban has been repealed, an assault weapon ban is needed to protect the people of the District, visitors, and law enforcement from these particularly dangerous weapons. An assault weapons ban would continue to allow law-abiding citizens to have common pistols in their homes for self-defense, and would remain in compliance with the *Heller* decision. We believe it is imperative for the Council, now that it has legalized common semiautomatic pistols, to restore a ban on military-style assault weapons.

### **Assault Weapons Are "Mass Produced Mayhem"**

Assault weapons are semiautomatic versions of fully automatic guns designed for military use. Even semiautomatic assault weapons unleash extraordinary firepower. When San Jose, California, police test-fired an UZI, a 30-round magazine was emptied in slightly less than two seconds on full automatic, while the same magazine was emptied in just five seconds on semiautomatic.

The Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") has described assault weapons in stark terms.

Assault weapons were designed for rapid fire, close quarter shooting at human beings. That is why they were put together the way they were. You will not find these guns in a duck blind or at the Olympics. **They are mass produced mayhem.**<sup>1</sup>

Assault weapons have distinct features that separate them from sporting firearms.<sup>2</sup> While hunting rifles are designed to be fired from the shoulder and depend upon the accuracy of a precisely aimed projectile, the military features of semiautomatic assault weapons are designed to enhance their capacity to shoot multiple human targets very rapidly. Assault weapons are generally equipped with large-capacity ammunition magazines that allow the shooter to fire 20, 50, or even more than 100 rounds without having to reload. Pistol grips on assault rifles and shotguns help stabilize the weapon during rapid fire and allow the shooter to spray-fire from the hip position. Barrel shrouds on assault pistols protect the shooter's hands from the heat generated by firing many rounds in rapid succession. Far from being simply "cosmetic," these features all contribute to the unique function of any assault weapon to deliver extraordinary firepower. They are uniquely military features, with no sporting purpose whatsoever.

Accordingly, ATF has concluded that assault weapons "are not generally recognized as particularly suitable for or readily adaptable to sporting purposes" and instead "are attractive to certain criminals."<sup>3</sup> ATF's analysis of guns traced to crime showed that assault weapons "are preferred by criminals over law abiding citizens eight to one.... Access to them shifts the balance of power to the lawless."<sup>4</sup>

It is no accident that when a madman, Gian Luigi Ferri, decided to assault the law offices at 101 California Street in San Francisco, he armed himself with two TEC-9 assault weapons with 50 round magazines, which enabled him to kill eight people and wound six others.<sup>5</sup> Or that the Columbine high school shooters who killed 12 students and a teacher included a TEC-9 assault weapon in their arsenal. Or that James Huberty used an UZI assault pistol and a shotgun to kill 21 people and wound 19 others at a McDonald's in San Ysidro, California.<sup>6</sup> Or that Patrick Purdy used an AK-47 assault rifle to kill five children and wound 29 others and a teacher at an elementary School in Stockton, California. Equipped with a 75-round "drum" magazine, Purdy was able to shoot 106 rounds in less than two minutes.<sup>7</sup> The list goes on.

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<sup>1</sup> ATF, *Assault Weapons Profile* 19 (1994) (emphasis added).

<sup>2</sup> *Id.* at 20.

<sup>3</sup> DEP'T OF TREASURY, *Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles* 38 (1998).

<sup>4</sup> ATF, *Assault Weapons Profile*, *supra* note 1, at 19-20.

<sup>5</sup> *Ferri Used Guns That California Ban Does Not Forbid*, SAN FRANCISCO EXAMINER, July 4, 1993.

<sup>6</sup> *Satellite College Campus Helps to Heal the Scars at San Ysidro Massacre*, LOS ANGELES TIMES, Mar. 30, 1989; *A 77-Minute Moment in History That Will Never Be Forgotten*, LOS ANGELES TIMES, July 16, 1989.

<sup>7</sup> *The Kinds of Guns School Killer Used*, SAN FRANCISCO CHRONICLE, Jan. 19, 1989; Michael Taylor & Leslie Guevarra, *Myterious Scrawlings and Slogans, School Killer's Last Days, Toy Army in his Room*, SAN FRANCISCO CHRONICLE, Jan. 19, 1989.

## Assault Weapons Threaten Law Enforcement

Law enforcement officers are at particular risk from these weapons because of their high firepower, which often leaves them outgunned by criminals. A researcher for the Department of Justice found that

assault weapons account for a larger share of guns used in mass murders and murders of police, crimes for which weapons with greater firepower would seem particularly useful.<sup>8</sup>

Assault weapons have even been used in a brazen attack at D.C. Police Headquarters. On November 22, 1994, a man armed with a MAC-11 assault pistol walked into Metropolitan Police headquarters and shot and killed Sergeant Henry Daly and FBI Agents Mike Miller and Martha Martinez. The shooter seriously wounded FBI Agent John Kuchta and shot at couches, walls, computers, and desks before shooting and killing himself with Agent Martinez's gun.<sup>9</sup>

In addition, numerous law enforcement officers have been killed with high-firepower assault weapons. Here are a few recent examples:

- **Philadelphia, PA. May 3, 2008.** Officer Stephen Liczbinski was shot and killed by an assault rifle as he was responding to a robbery at a Bank of America branch. Three men robbed the bank and were fleeing when Officer Liczbinski stopped their car and exited his patrol car. At that time, one of the bank robbers opened fire with an SKS assault rifle, striking Liczbinski numerous times. One suspect was eventually shot and killed by police and the other two suspects were arrested and charged with murder.<sup>10</sup>
- **Miami, Florida. September 13, 2007.** Police spotted a vehicle driving erratically and followed it until it stopped in a residential complex. The suspect got out and hopped a fence to the rear of the home; the officers exited their patrol car and went to the front of the home and were granted permission to search by a female resident. The suspect grabbed a high-powered, military-grade rifle and fired at the police officers through a window, killing Officer Jose Somohano. The suspect then exited the house and shot three other officers as he escaped. The shooter was caught later that day but would not relinquish his assault rifle so he was shot and killed by police officers.<sup>11</sup>

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<sup>8</sup> Christopher S. Koper, *Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, U. Penn. Jerry Lee Center of Criminology 87 (June 2004).

<sup>9</sup> Brian Reilly, *Cop killers' guns similar; handgun converted to fiercer weapon*, THE WASHINGTON TIMES, May 1, 1995.

<sup>10</sup> Joseph A. Gambardello, *Liczbinski suspect's girlfriend to stand trial*, PHILADELPHIA INQUIRER, July 17, 2008; *Officer shot, killed after bank robbery*, NBC 10.COM, May 3, 2008; Sergeant Stephen Liczbinski, [www.odmp.org](http://www.odmp.org), available at: <http://www.odmp.org/officer/19359-sergeant-stephen-liczbinski> (last visited Sept. 30, 2008).

<sup>11</sup> David Ovalle et. al., *The murder and the manhunt started in a South Miami-Dade townhouse, zigzagged...*, MIAMI HERALD, Sept. 15, 2007.

- **Chantilly, Virginia. May 8, 2006.** A teenager with an AK-47 and 5 handguns engaged in a firefight at a police station in suburban Virginia, killing Detective Vicky Armel immediately and wounding two other officers, one of whom, Officer Michael Garbarino, died nine days later from his injuries.<sup>12</sup>

The threat posed to law enforcement is one reason why major law enforcement organizations are united in supporting bans on assault weapons.

### **Assault Weapons Threaten Civilians**

Assault weapons have also been used to massacre and terrorize civilians. Who can forget the nightmare we lived through in the District of Columbia and surrounding communities during the attacks committed by the D.C. snipers. Their weapon of choice? A Bushmaster XM-15 assault rifle.

There have been hundreds of other shootings committed with semiautomatic assault weapons. Here, we list just a few recent examples:

- **Arvada & Colorado Springs, Colorado. December 9, 2007.** One man with an assault rifle attacked a missionary training center in Arvada and a church in Colorado Springs. He killed two people and injured two others in Arvada, and killed two and injured three others, including two teenage sisters, in Colorado Springs. He died after being shot by a security guard and then shooting himself.<sup>13</sup>
- **Omaha, Nebraska. December 5, 2007.** Nine people were shot to death and five others were injured after a 20-year-old shooter, armed with a military-style assault rifle, attacked shoppers in a department store in a Nebraska mall.<sup>14</sup>
- **Indianapolis, Indiana. June 2, 2006.** Seven family members, four adults and three children, were shot and killed in their home by a robber armed with an assault rifle. Nearly 30 shell casings were found.<sup>15</sup>
- **Tyler, Texas. February 25, 2005.** A gunman with a history of domestic violence and a felony conviction, who was reportedly fighting with his ex-wife over child support for their two youngest children, shot over 50 rounds from an SKS assault rifle on the steps of his local courthouse when his ex-wife exited the building. His ex-wife was killed along with a bystander who tried to shoot the gunman. The shooter's 23-year-old son and three law enforcement officers were wounded during the shooting, including a 28-year-old deputy who

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<sup>12</sup> Ian Urbina, *Fatal police station attack shocks tranquil community*, NEW YORK TIMES, May 10, 2006; *Officer Killed*, BOSTON GLOBE, May 18, 2006.

<sup>13</sup> Erin Emery, *Report details church shooting, the document chronicles the days leading up to the Dec. 9 deaths of four young people*, DENVER POST, Mar. 13, 2008.

<sup>14</sup> *The American Way*, REGISTER-GUARD, Dec. 17, 2007.

<sup>15</sup> Ashley M. Heher, *Suspect in slaying of 7 family members surrenders / Indianapolis police say he had nowhere else to go*, HOUSTON CHRONICLE, June 4, 2006.

was in grave condition. The gunman fled the scene but was pursued and shot by police when he exited his car and shot toward officers.<sup>16</sup>

- **Akron, Ohio. February 24, 2005.** A man shot and killed his girlfriend and her seven-year old son using an AR-15 assault weapon, then fired more than one hundred rounds at a dozen law enforcement officers as he fled the murder scene. The gunman was arrested the next morning inside the apartment of a Kent State University student, who he also murdered with the AR-15 assault weapon. Police subsequently seized 21 weapons kept by the suspect, including an Uzi and an AK-47.<sup>17</sup>

### Assault Weapons Threaten Homeland Security

These weapons pose particular and severe risks for homeland security here in the Nation's Capital. The extraordinary firepower of these weapons could wreak havoc at any number of high-profile sites or events that occur in Washington, or victimize any number of high-profile targets, from government officials to foreign dignitaries.

And make no mistake: these weapons have great appeal for terrorists. The oft-seen file footage of Osama Bin Laden, aiming his AK-47 at an unknown target, is now a familiar reminder of the incontrovertible connection between terrorism and assault weapons.

The *Chicago Tribune* has reported that, found among the mounds of rubble at a training facility in Kabul for a radical Pakistan-based Islamic terrorist organization, was a manual entitled "How Can I Train Myself for Jihad" containing an entire section on "Firearms Training."<sup>18</sup> Tellingly, the manual singles out the United States for its easy availability of firearms and stipulates that al-Qaeda members living in the United States "obtain an assault weapon legally, preferably AK-47 or variations."

Terrorists have used assault weapons in numerous attacks. I am going to mention just one that is close to home.

- **Langley, Virginia, January 25, 1993.** Pakistani national Mir Aimal Kasi killed two CIA employees and wounded three others outside the entrance to CIA headquarters in Langley, Virginia. Kasi used a Chinese-made semiautomatic AK-47 assault rifle equipped with a 30-round magazine purchased from a Northern Virginia gun store.<sup>19</sup> After fleeing the country, he was arrested in Pakistan in 1997.<sup>20</sup>

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<sup>16</sup> Bill Hanna & Jack Douglas Jr., *Rampage in Tyler leaves three dead, four wounded*, FORT WORTH STAR-TELEGRAM, Feb. 25, 2005; Jack Douglas Jr. & Bill Hanna, *Police order emergency trace on weapon used in shootings*, FORT WORTH STAR-TELEGRAM, FEB. 26, 2005.

<sup>17</sup> Ed Meyer, *Police eye semiautomatic rifles, Brimfield officials want to be prepared after recent shooting rampage that killed 3 people*, AKRON BEACON JOURNAL, Feb. 24, 2005.

<sup>18</sup> Paul Salopek, *A Chilling Look into Terror's Lair*, CHICAGO TRIBUNE, Nov. 18, 2001.

<sup>19</sup> *CIA Killings Prompt Scrutiny on 2 Fronts; Fairfax Loophole Expedited Gun Purchase*, WASHINGTON POST, Feb. 11, 1993.

<sup>20</sup> Robert O'Harrow, Jr., *Kansi's Shadowy Stay in U.S. Leaves a Hazy Portrait*, WASHINGTON POST, Mar. 3, 1993.

### **.50 Caliber Sniper Rifles Pose Serious Dangers**

Fifty caliber sniper rifles also pose an extraordinary risk in the District. In 1987, Barrett Firearms Manufacturing Inc., patented its self-described “armor-penetrating” .50 caliber BMG sniper rifle.<sup>21</sup> Capable of destroying armored personnel carriers, aircraft and bulk fuel and ammunition sites, the .50 caliber sniper rifle is now proliferating in the civilian market.<sup>22</sup> Accurate at up to 2,000 yards, it can inflict effective damage to targets over four miles away.<sup>23</sup> With more power on impact than any other semi-automatic rifle legally available on the civilian market,<sup>24</sup> the .50 caliber represents a serious threat to local law enforcement and national security. A 2004 report on airport security at Los Angeles International Airport warned that terrorists could use .50-caliber sniper rifles to target parked and taxiing airplanes “firing over 50 shots in five minutes.”<sup>25</sup> The Council should take action to prohibit the possession of these weapons in civilian hands.

### **High-Capacity Magazines Increase Firepower**

The threat posed by military-style assault weapons is increased significantly if they can be equipped with high-capacity ammunition magazines, defined as those accepting more than ten rounds. The 1994-2004 federal ban on assault weapons also banned these magazines. By permitting a shooter to fire more than ten rounds without reloading, they greatly increase the firepower of mass shooters. For example, the shooter at Virginia Tech equipped himself with numerous high-capacity magazines of up to 30 rounds, which enabled him to get off nearly 200 rounds in his attack. In self-defense situations, too much firepower is a hazard, because the tendency is for defenders to keep firing until all bullets have been expended, which poses grave risks to others in the household, passersby, and bystanders.

### **Assault Weapons Bans Already In Place**

Six states currently ban assault weapons. Those include California, which passed the nation’s first statewide ban in May 1989, as well as New Jersey (1990), Hawaii (1991), Connecticut (1993), Maryland (1994), Massachusetts (1998), and New York (2000). California expanded its ban in 2000 to include all semiautomatic rifles or pistols that have the ability to accept a detachable magazine and contain any one of a series of military-style features. We strongly support that legislation as a model for the District of Columbia.

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<sup>21</sup> Carolyn Marshall, *California Bans Large Caliber Guns, and the Battle is on*, NEW YORK TIMES, Jan. 4, 2005.

<sup>22</sup> See, Government Accounting Office for U.S. House of Representatives, Committee on Government Reform, *Long Range 50 Caliber Sniper Weapons* 4 (May 3, 1999).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 3.

<sup>25</sup> Donald Stevens, *Near Term Options for Improving Security at Los Angeles International Airport*, RAND (2004).

In addition, from 1994-2004, there was a federal ban on assault weapons. Plus, as mentioned above, ATF currently bans assault weapons from being imported into this country because they are not weapons suitable for sporting purposes.

### **Banning Assault Weapons and Sniper Rifles Is Consistent with *Heller***

A ban on assault weapons and .50 caliber sniper rifles would be constitutional and consistent with the Supreme Court's decision in *District of Columbia v. Heller*. In *D.C. v. Heller*, the Supreme Court narrowly defined the Second Amendment as protecting the right of law-abiding citizens to keep and use guns in the home for self-defense. At the same time, the Court indicated that the right to keep and bear arms is limited in a number of ways. The Court made clear that the Second Amendment does not entitle citizens to any and all guns. Certainly, military-style assault weapons and .50 caliber sniper rifles are not a part of this right. The Court held that not all "arms" are protected.

We also recognize another important limitation on the right to keep and carry arms. [*U.S. v. Miller* said, as we have explained, that the sorts of weapons protected were those "**in common use at the time.**" We think that limitation is fairly supported by the historical tradition of prohibiting carrying of "**dangerous and unusual weapons.**"<sup>26</sup>

Assault weapons and .50 caliber sniper rifles are certainly "dangerous and unusual weapons" according to any reasonable analysis of that phrase. They are military-style offensive weapons designed to slaughter human beings. This differentiates them from all hunting rifles and shotguns, as well as common handguns, which are often used in crime but have also been used in self-defense.

Moreover, assault weapons and .50 caliber sniper rifles are not "in common use." As semiautomatic versions of machine guns developed for use during the World Wars of the 20<sup>th</sup> Century, assault weapons are a relatively recent invention. Plus, ATF has twice concluded, after thorough analyses in 1989 and 1998, that assault weapons have no sporting purpose. And the Barrett .50 caliber sniper rifles was patented a mere twenty-one years ago, and was made for military, not civilian use.

Finally, assault weapon bans have been challenged in court, but have never been struck down as unconstitutional under the Second Amendment or under right to bear arms provisions in state constitutions.<sup>27</sup>

### **Conclusion**

Outside of the military or law enforcement, assault weapons and .50 caliber sniper rifles have no place in civilized society. We would urge the D.C. Council to adopt a ban on these weapons. Thank you.

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<sup>26</sup> *District of Columbia v. Heller*, 128 S.Ct. 2783 (2008).

<sup>27</sup> See, e.g., *Benjamin v. Bailey*, 662 A.2d 1226 (Conn. 1995); *Robertson v. Denver*, 874 P.2d 325 (Colo. 1994); *Arnold v. City of Cleveland*, 616 N.E.2d (Ohio 1993).

**Daniel W. Webster, Co-Director, Johns Hopkins Center for Gun Policy and Research  
Testimony on firearm sales regulations before the District of Columbia's Council Committee on  
Public Safety and the Judiciary, October 1, 2008**

Chairman Mendelson and council members, thank you for inviting me to testify today. I am here to urge the Council to develop a comprehensive set of policies and procedures for regulating guns that are grounded in the best available science relevant to protecting public safety. I am an associate professor and co-director of the Center for Gun Policy and Research at the Johns Hopkins Bloomberg School of Public Health. I have studied gun violence and its prevention for 20 years and have worked with several cities on their efforts to curb gun violence.

The primary goal of the District's gun laws should be to maximize public safety without preventing truly law-abiding, mentally-stable adults to possess firearms. The most effective gun policies will 1) proscribe the most dangerous people from possessing firearms; and 2) establish accountability measures to discourage illegal transfer to and acquisition by those proscribed individuals. Unfortunately, federal law and most state laws allow criminals convicted of misdemeanor crimes involving violence, weapons, drugs, and alcohol abuse to legally acquire as many firearms as they please. Current law in the District of Columbia wisely prohibits criminals convicted of crimes involving violence and/or guns or anyone convicted of an offense involving illegal drugs within the past five years to possess firearms regardless of whether the convictions were for felonies or misdemeanors. Prior research has shown that young men with misdemeanor convictions who were legally able to purchase handguns went on to commit crimes involving violence at a rate that was 2- to 10-times higher (depending on the prior offense) than that of men who were truly law-abiding when they purchased a handgun.<sup>1</sup> Prohibitions of firearm ownership by violent misdemeanants is associated with lower rates of violence by this high-risk group<sup>2</sup> and has broad public support, even among gun owners.<sup>3</sup>

While the standards for firearm registrants in the District of Columbia are appropriate, they could be improved by denying registration to individuals who have 2 or more violations for driving while intoxicated. In addition to having demonstrated a history of reckless behavior that threatens public safety, repeat DUI/DWI offenders have very high rates of substance abuse and other psychiatric disorders.<sup>4, 5, 6</sup> Such offenders have less self-control<sup>7</sup> and have higher rates of repeated arrests<sup>8</sup> - not a group that should be trusted with firearms.

Another group of individuals who should be prohibited from possessing firearms (but aren't currently prohibited) because they are a clear threat to others, including innocent children, are domestic violence offenders. I co-authored a large study to determine what factors most contributed to lethal outcomes from domestic violence. Abuser's ownership of a firearm increased the risk of homicide five-fold, more than any other risk factor we identified.<sup>9</sup> Federal law and many state laws prohibit firearm possession by persons restrained by protective orders issued by courts to protect victims of domestic violence. Research has demonstrated that these policies save lives.<sup>10</sup> Because these orders rarely last more than 12 months despite a more enduring threat, I recommend that the offender should be proscribed from possessing firearms in the District for a five-year period as is the case now for drug offenders.

In addition to setting high standards for legal firearm ownership, the District should have a set of regulations and enforcement procedures to reduce the likelihood that dangerous people can obtain firearms. My own research demonstrates that the rate at which new guns are diverted to criminals can be significantly reduced by regulation, oversight, and scrutiny that retail gun shops receive.<sup>11, 12, 13, 14, 15</sup> The District should set the highest of standards for obtaining and retaining a license to sell firearms. In addition to standard record-keeping requirements to ensure accountability, I urge the Council to make most of the firearms sales policies that Wal-Mart (the world's largest retail seller of firearms) is implementing mandatory for all firearm dealers. These include point-of-sale security cameras, criminal



background checks of employees, requirements that dealers safely lock up their guns, employee training to identify fake IDs and illegal straw purchases, and regular audits of inventory. Twenty gun stores agreed to adopt these measures after they were caught making gun sales of questionable legality as part of their legal settlement with New York City. I analyzed sales and crime gun recovery data for the dealers who had been keeping individualized gun sales records and documented a dramatic decrease in the risk that a gun sold by the dealers would subsequently be recovered from criminals.<sup>15</sup>

In Maryland and Virginia and throughout the U.S., there have been cases in which gun dealers were allowed to retain their licenses for many years despite racking up hundreds of firearm sales violations, failing to account for hundreds of guns, and being a well-known conduit for guns into the criminal market. The District should avoid such travesties by requiring gun dealers to conduct and submit a list of guns in their inventory when they renew their licenses annually, and to report any loss or theft of firearms immediately upon discovering missing firearms. In addition, the District should allow the Metropolitan Police Department to suspend, revoke, or deny renewal of a license to sell firearms to gun dealers who do not comply with regulations.

Private gun owners must be held accountable for selling to individuals who do not have a valid license to own a firearm and who have not passed a background check. Gun owners should also be required to keep their guns locked up when they are not being used to prevent access to children, teens, or thieves. In addition to reducing accidental shootings,<sup>16, 17, 18</sup> my research has shown that safe gun storage laws significantly reduce adolescent suicides.<sup>19</sup> Some of this research has indicated that so-called Child Access Prevention laws are most effective when penalties are strong.<sup>17, 18</sup> Thus, I believe there is good justification to allow for felony prosecution when a gun owners' failure to comply with the CAP law results in injury to others, to penalize unsafe gun storage that enables a minor to access the firearm, and to require gun dealers to post signs reminding gun purchasers of their duty to keep guns safely stored to prevent child access.

The final recommendation, supported by research I have led, is that the District of Columbia should ban the sale and possession of "junk guns" – a category of handguns characterized by their very small size and concealability and poor construction. Five states, including Maryland, have banned junk guns (though through somewhat different approaches or criteria) because they are prone to misfire, fire when dropped, and are disproportionately involved in crime. My colleagues and I studied the effect of a large gun dealer near Milwaukee who, after receiving bad publicity for the large number of his guns that were being linked to violent crimes, voluntarily decided to stop selling junk guns. We found that this change in sales policy led to 77% reduction in the number of new guns sold by the dealer that were soon recovered from criminals.<sup>12</sup> My research on Maryland's ban of these guns demonstrated that the law was associated with 40 fewer homicides per year during the first 9 years the law was in place.<sup>20</sup>

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**Office of the Attorney General for the District of Columbia**

**Before the**

**COMMITTEE ON PUBLIC SAFETY AND THE JUDICIARY  
Phil Mendelson, Chairperson**

**Bill 17-0843, the "Firearms Control Amendment Act of 2008"**



**Peter J. Nickles  
Acting Attorney General for the District of Columbia**

**Wednesday, October 1, 2008  
10:00 a.m.  
Room 500  
John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.**

Good morning Chairman Mendelson, members of the Committee on Public Safety and the Judiciary, members of the Council of the District of Columbia, and guests. I am Peter J. Nickles, Acting Attorney General for the District of Columbia, and I am pleased to appear before you this morning to discuss Bill 17-843, the “Firearms Control Amendment Act of 2008.”

On June 26, 2008, the U.S. Supreme Court issued its decision in *District of Columbia v. Heller*. As you know, the Court held that two particular aspects of District law violated the Second Amendment. The first was a broad ban on private possession of handguns. The second was a provision on safe storage of firearms that was found to have no self-defense exception, so that homeowners could never use a gun in self-defense. Immediately upon receipt of the decision, the Mayor and the Council began a process to address both issues and to consider what other legislative or regulatory actions should be taken to achieve the necessary balancing of competing interests between gun owners and the public’s right to be protected from increased gun violence. As a first step, emergency legislation was passed and emergency regulations were promulgated which both became effective on July 16th — less than three weeks after the decision — to address the two issues specifically covered by the *Heller* decision. Pursuant to that emergency action, many residents, including Mr. Heller, began and completed a registration process that resulted in those residents obtaining registrations for pistols for use in self-defense within their homes.

In addition to the new pistol registration legislation, it was determined that the District needed to revise its zoning regulations as they applied to retail gun dealers. Emergency regulations to require retail gun dealers to complete a special exception

process and to satisfy reasonable siting and safety requirements were submitted to the Zoning Commission, which approved them and set the permanent regulation for a public hearing.

Those two actions were the first step in the District's response to the *Heller* decision. The second step occurred when the Mayor and the Council recognized that the initial emergency actions required additional provisions to address legitimate concerns raised by District residents on both sides of this issue. The concerns focused on whether the emergency measures were overly restrictive and whether the District's laws should be revised to address these concerns. In response, the Mayor and the Council agreed on revisions that were enacted in the Second Firearms Control Emergency Amendment Act of 2008 on September 16, 2008. Those revisions included: 1) providing authority for the registration of semi-automatic firearms which are not equipped with a high capacity ammunition feeding device; 2) outlawing ammunition feeding devices that can hold more than 10 shots of ammunition; and 3) revising the District's safe storage laws to move to a Child Access Prevention prohibition to provide criminal liability for gun owners who fail to keep their firearms secured when minors are present.

This hearing, and the one the Committee conducted on September 18, 2008, represents the third step in the District's ongoing process to revise its firearms laws. The Committee has heard a number of suggested changes or additions to our laws. I would like to suggest the following changes: 1) aligning the method of transporting registered firearms with federal standards and providing that only registered owners may legally transport firearms; 2) providing for the revocation of firearms registrations for all persons subject to a Civil Protection Order as that term is defined in District law; 3) clarifying

that public and private property owners in the District have the authority to prohibit the possession of firearms on their property; 4) extending the provisions of the Child Access Prevention (CAP) prohibition to other classes of individuals that a gun owner should reasonably know might have access to the owner's firearms, such as persons with mental health issues and convicted felons, and revising the age of minority regarding CAP provisions in the current emergency act to raise it from 16 to 18 years of age; and 5) strengthening penalties for possessing unlawful ammunition and illegally possessing firearms outside of a person's home.

## **CONCLUSION**

I appreciate the opportunity to present my views at this point in the process. I pledge the full support of my Office to assist the Mayor and Council with any legal assistance and advice that is required as the District continues the process of revising its firearms statutes and regulations. I am happy to answer any questions you may have.

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Government of the District of Columbia



Metropolitan Police Department

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Testimony of  
**Cathy L. Lanier**  
Chief of Police

Bill 17-843  
*Firearms Control Amendment Act of 2008*

Committee on Public Safety & the Judiciary  
Phil Mendelson, Chair  
Council of the District of Columbia

October 1, 2008

John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

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Good morning, Chairman Mendelson, Council members, community members, and guests. My name is Cathy Lanier, and I am Chief of the Metropolitan Police Department. I am pleased to testify before you today about the important issue of firearms regulation in the District of Columbia.

The District has long wrestled with the epidemic of gun violence that plagues our neighborhoods. The Metropolitan Police Department and our partners in the criminal justice system are continually working to develop and implement better strategies to prevent gun violence, and arrest and prosecute violent criminal offenders. Among the initiatives are the Gun Recovery Unit and the GunStat program. In November 2007, I reinstituted the Gun Recovery Unit, staffed with officers with enhanced training on identifying and recovering illegal guns. In March of this year, Mayor Fenty launched the GunStat program, a collaborative information sharing process among local criminal justice agencies, including police, prosecutors, Superior Court, Court Services and Offender Supervision Agency (CSOSA) and DC Pretrial Services Agency. GunStat tracks gun cases from arrest to prosecution, allowing criminal justice partners to identify repeat offenders, follow trends, and create law enforcement strategies to prevent gun-related crimes. We are seeing positive results from these and other efforts; so far in 2008, violent gun crimes are down 12 percent.

However, we have found ourselves faced with a new challenge since the Supreme Court issued its decision in *District of Columbia vs. Heller*. Let there be no misunderstanding: there is no question of whether we will comply with the Court ruling. The Metropolitan Police Department has worked closely with Mayor Fenty, Acting Attorney General Nickles and others in the Administration to ensure that our laws and policies are in compliance with the Court decision. But we are still working to determine the appropriate level of regulation for legally owned firearms. For example, what steps might have the greatest benefits for public safety? Which ones will be the most cost-effective? We are still exploring these questions as we work to bring the firearms registration process into the 21<sup>st</sup> century.

As you know, there are no easy consensus answers on this hotly debated topic. The laws and regulations vary greatly from state to state, and in some cases, from city to city. The impact of firearms on communities also varies among jurisdictions, but some studies have found common outcomes that suggest a direct link between access to legal guns and increased violence. According to the Bureau of Alcohol, Tobacco, Firearms and Explosives – more commonly known as ATF – most guns used in crimes are obtained from legitimate channels – gun stores or gun shows. A 2007 study conducted by the Harvard Injury Control Research Center found a direct relationship between legal gun ownership and homicide rates. This first nationally representative study found that gun-related homicide rates among children, and among women and men of all ages, are higher in states where more households have guns. According to the researchers, the results suggest that “household firearms may be an important source of guns used to kill children, women and men, both on the street and in their homes.”<sup>1</sup> These findings suggest that the issues we are grappling with today regarding regulating guns will have a direct impact on public safety.

The fact that very few legal guns have been involved in crimes in the District, because there are so few legally owned firearms, should not change this conclusion. The majority of handguns

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<sup>1</sup> Harvard School of Public Health (2007, January 14). States With Higher Levels of Gun Ownership Have Higher Homicide Rates. *Science Daily*. <http://www.sciencedaily.com/releases/2007/01/070111181527.htm>

registered in DC over the past decade are in the possession of former law enforcement officers and licensed security agencies, a group with a higher level of training and understanding of the need to safeguard firearms than the general public. Therefore it would be a serious mistake to assume that we do not need to be concerned about legally registered firearms based on this limited experience. We have made real progress in driving down the homicide rate in the District over the past several years; we want to do everything possible to continue that trend.

In addition to the violent crime that we see in our city everyday, we must also guard against potential terrorist acts. I will not spend too much time on this today, but as I testified in September before the House Committee on Oversight & Government Reform, terrorists will take great steps to ensure they stay within the law up to and until they attempt a terrorist attack. For instance, the 9/11 Commission found that many of the 9/11 hijackers acquired some form of legal U.S. identification.

Therefore, it does seem appropriate for DC to consider gun registration as a viable means to reduce potential gun violence. The District's registration process serves four key purposes: verifying the eligibility of the owner to legally possess the firearm; ensuring that owners have a common body of knowledge; providing a certificate that enables law enforcement to readily identify legal firearms and the rightful owners; and establishing a means of tracking legal firearms that may be lost, stolen, or used in a crime.

It is critical that the city be able to verify the eligibility of a person to possess a firearm. The criminal background check performed by MPD, which is based on fingerprints, is more effective than that performed by a gun dealer, which is merely based on a social security number. Indeed, a study published this summer found that states that perform local-level background checks for firearms have lower homicide and suicide rates than states that rely only on a federal background check. Local-level checks were associated with a 22-percent lower homicide rate and a 27 percent lower suicide rate in adults aged 21 years or older.<sup>2</sup>

Two goals of the registration process are very similar to standard driver's license processes. First, it is a means of ensuring that all registrants share the same basic level of knowledge. I think we all agree that gun registrants should know the relevant laws and regulations. In addition, two issues that merit further consideration are whether the city also needs to ensure that owners share a common understanding of safety measures, as well as a certain level of proficiency at using guns. I am not ready to suggest that the city require firearm proficiency to own one. Unlike a driver's license, firearm registration does not give the owner permission to use the gun on public space in the city.

However, I believe the city has an important role in providing education on firearms safety to a registrant. In addition to criminal gun violence, the city should also be very concerned about a potential increase in accidental injuries and their impact on public health and economic outcomes. For instance, a 2007 survey of families with children and household firearms found that less than 30 percent store their firearms safely in their residence.<sup>3</sup> Moreover, parents need to be concerned not

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<sup>2</sup> Medical College of Wisconsin (2008, June 3). Firearm Suicide and Homicide Rates Associated with Level of Background Check. *ScienceDaily*. <http://www.sciencedaily.com/releases/2008/06/080603155227.htm>

<sup>3</sup> Wake Forest University Baptist Medical Center (2007, June 5). Few Families Report Safe Firearm Storage, According to Survey. *ScienceDaily*. <http://www.sciencedaily.com/releases/2007/06/070604090250.htm>

just with their own firearms, but with firearms in homes where their children visit. Although I think the child access provisions that are currently law are sound, they should be reinforced with education. I would recommend that some safety information be communicated specifically to gun registrants, in addition to broader public information campaigns. One option is to mirror the Maryland requirement that applicants watch a video before receiving their registration. This could potentially be done at firearms dealers, online, or at the MPD Firearms Registration Section.

Also similar to the driver's license process, MPD issues a certificate with a photograph of the owner to all firearms registrants. Registrants are required to have this certificate in their possession whenever they have the firearm in their possession. A registrant must also exhibit the license upon request of a law enforcement officer. I firmly believe that this certificate with photo identification is critical to public safety in the District. Without this, in many instances it will be far more difficult for officers to readily distinguish between a registered owner legally transporting a firearm, and someone carrying an illegal firearm.

Lastly, the registration process allows us to identify and track legal firearms that may be lost, stolen, or used in a crime. Given that legal guns are indeed used in crimes and associated with higher homicide rates, I think there is a clear reason for the District to continue to register firearms. However, there is some debate about whether the technology is capable of helping us to link legal guns to gun crimes. The debate focuses on the potential of two technologies to help make this link: one uses ballistics images and the other, microstamping.

The ATF uses ballistics images to help solve crimes by supporting a National Integrated Ballistic Information Network – or NIBIN, a national database of essentially digital pictures of bullets and cartridge casings. When new ballistics images of crime scene evidence is entered into NIBIN, trained firearms examiners look for “hits,” a linkage of two different crime scene investigations through NIBIN where previously there had been no known connection. According to the ATF, there have been tens of thousands of “hits” through NIBIN, linking criminals to multiple crimes, enabling us to hold offenders accountable and to bring closure to victims and their families. MPD has recorded more than 800 hits over the past seven years.

To be clear, the NIBIN method compares ballistics across crime scenes, not to ballistics records for legally purchased firearms. Maryland and New York, however, use an Integrated Ballistic Identification System – or IBIS, to track ballistics images of legally registered firearms. It has been reported that they have had very few hits against registered firearms from crime scene evidence. I will explain in a moment some of the reasons why this might be. But it is important to note that MPD was able to get solid evidence in a high-profile case based on crime scene evidence run through Maryland's database on registered firearms. I am sure many of you remember the triple homicide that occurred in the Colonel Brooks' Tavern in 2003. MPD was able to link the offenders to the crime when the crime scene evidence hit against a firearm legally registered in Maryland. The gun had been purchased by the cousin of one of the perpetrators. Despite the fact that we did not have the gun that was used, the ballistics and other evidence was so strong that one suspect committed suicide and two pled guilty. The only suspect who went to trial was convicted.

While Maryland and New York may not have had many hits using the IBIS method, I believe that the District may have better results with such a system for a couple of reasons. The science of

firearms examination is based on the unique “toolmarks” that a firearm leaves on a fired bullet and casing. Extensive experience in the criminal justice field indicates that the toolmarks left by a firearm are so distinct as to be essentially unique. On a practical level, this means that although there is no mathematical certainty of a “match” generated by NIBIN or IBIS, the program narrows the search, and then trained professionals compare images. Maryland and New York may have limited success with IBIS because of practices that increase the error rates in the “hits.” For instance, in Maryland, laboratory technicians who were not qualified firearms examiners captured the ballistics images, which overall probably decreased the quality of the images. In contrast, MPD would use trained firearms examiners. Another issue may be the authenticity of the cartridge casings entered into the database of registered firearms. Both Maryland and New York enter casings submitted by gun dealers, and Maryland has found at least one dealer that was not submitting authentic casings. Since MPD is firing all weapons to retrieve the ballistics, we would not have that problem. We are also able to increase the likelihood of matches by firing two types of bullets: both copper and nickel. Because the metallic composition of the bullet can have an impact on the image, having images from multiple types of bullets would make the District database more robust.

The District would also have a more robust representation of crime scene evidence than either Maryland or New York. The Maryland and New York State Police maintain their databases for the legally registered firearms, but local jurisdictions process most crime scenes. Many of them, including New York City, do not enter all crime scene ballistics against IBIS. In the District, MPD would be tracking both the registered guns and the crime scene evidence, thereby increasing the probability of a hit.

Thus I think there are several ways that MPD could improve the use of IBIS and achieve better results. Nevertheless, before we purchase an IBIS system for use with our firearms registration, I want to be sure that we will be able to use it efficiently. One potential drawback to the IBIS system is that our ability to use old ballistics evidence already in NIBIN may be limited. The Department would need to request permission from ATF to bring NIBIN data into IBIS. I am submitting this request to ATF at the same time that my staff is talking with New York and Maryland about other procedures they may be using.

Although there are several concerns about the value of using ballistics to link crime scene evidence with registered firearms, it does not seem that microstamping is ready to replace ballistics testing yet. Microstamping technology uses a laser to etch a pattern or code onto the head of a firing pin or another internal surface of a firearm. Like the traditional firearms tool marks, microstamps leave a mark on a cartridge case. It appears that several studies on microstamping have reached different conclusions. Most recently, a study by the Forensic Science Graduate Group at University of California—Davis indicated that the technology is feasible, but its performance and durability varied.<sup>4</sup> There were some questions about the validity of the study when the findings were first released. The fact that the findings were released at a politically sensitive time – during the debate in the California legislature on microstamping – may have contributed to a sharp reaction to it. But the study has now been subject to peer review and has been officially released with the support of the university president.

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<sup>4</sup> University of California – Davis (2008, May 16). Firearms Microstamping Feasible but Variable, Study Finds. *ScienceDaily*. <http://www.sciencedaily.com/releases/2008/05/080514092333.htm>

After reading materials on this technology, I can only come to the same conclusion as UC—Davis as well as the well-regarded National Research Council: more research should be conducted before we adopt the technology. The Department will certainly continue to explore it. As you know, I am strongly committed to ensuring that MPD has the technology that supports our mission. I look forward to meeting with some of the proponents of the technology here today. In the meantime, until more questions about the technology are answered, I strongly recommend that MPD continue to collect ballistics samples for registered firearms for the time being. Rest assured, I certainly want to resolve this question expeditiously, but I do not want to make a hasty decision. It would be foolish to act too precipitously and lose the opportunity to capture the casings from the firearms being registered now.

In conclusion, I think that the registration process for firearms is vital and enhances public safety. It enables MPD to verify eligibility through a local background check, a process that has been found to reduce homicide rates. It also provides an opportunity to educate registrants about vital laws, responsibilities, and safety. The registration certificate helps MPD to identify illegal firearms, while the ballistics testing can help MPD to investigate and solve crimes.

Beyond the value of the initial registration, I think there would be real public safety benefits to requiring firearms to be re-registered every five years. This would enable MPD to verify that the owner has maintained eligibility, and to update the registration certificate with the owners current address and picture. It would also help to ensure that people accurately report when firearms are lost or stolen. We would not, however, need to conduct another ballistics test during this process. But I believe it is sound public policy to establish the requirement now, with the commitment to develop an efficient and effective process in the future.

Thank you for the opportunity to present this statement for the record. I will be happy to answer any questions that you have.

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**Government of the District of Columbia**



**Metropolitan Police Department**

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Testimony of  
**Cathy L. Lanier**  
**Chief of Police**

***Hearing on the Impact of Proposed Legislation  
on the District of Columbia's Gun Laws***

United States House of Representatives  
Committee on Oversight & Government Reform  
Honorable Henry A. Waxman, Chair

September 9, 2008

U.S. House of Representatives  
Washington, DC 20515

Chairman Waxman, members of the Committee, staff, and guests: my name is Cathy Lanier, and I am the Chief of Police of the Metropolitan Police Department of the District of Columbia. Thank you for the opportunity to present this statement on the likely impact of H.R. 6691 on public safety in the Nation's Capital.

To begin with, I would like to briefly share with you what has happened in Washington, DC, since the US Supreme Court issued its decision in *District of Columbia v. Heller*. The District government – both the Executive and the Legislative branches – fully respects the Supreme Court's decision. We have demonstrated that respect by taking quick action to pass legislation and emergency regulations to enable registration of handguns and to ensure that residents already possessing unregistered handguns could register them without fear of criminal liability under District law. The current legislation and regulations are only temporary—valid for 90 and 120 days, respectively—and remain works in progress. The Council of the District of Columbia will be holding a hearing next week to continue to elicit comment from the public and will amend the temporary legislation on September 16<sup>th</sup> and enact permanent legislation soon after. Today's hearing is another important opportunity to hear a variety of viewpoints on this issue.

After the Court ruling, I mobilized my staff to ensure that MPD's 4,000 sworn members and the public were immediately educated about the impact of the ruling. Within hours of the decision, I held a conference call with my Command Staff, and informed the entire force of the content of the decision via a teletype, our internal daily newsletter, and on "Temperature Boards," which are television screens at MPD facilities broadcasting vital information to the force 24-hours a day. This message was reinforced by a training video on the impact of the decision that officers began viewing within days of the ruling. At the same time, I issued a personal message to the public on community list-serves, posted information on our website, and created a 24-hour public hotline. Since the regulations were issued, the Department has registered 23 handguns. We expect this volume to increase now that there is a firearms dealer in the District of Columbia with a Federal Firearms License.

\* \* \* \*

Turning to H.R. 6691, I have grave concerns about the proposed bill, which would prevent the District of Columbia from registering firearms, or taking many other reasonable and commonly-used steps—taken by states and municipalities across the country—to regulate or limit possession and use of firearms. In layman’s terms, this means that anyone not prohibited by Federal law from possessing a firearm could legally own a small, easily concealed, semi-automatic handgun, or could carry a semi-automatic rifle on the street, either of which could be capable of firing up to 30 rounds of ammunition without reloading.

In my professional opinion, if H.R. 6691 were passed, it would be far more difficult for MPD and Federal law enforcement agencies in the District of Columbia to ensure safety and security in the Nation’s Capital. I say this not just as a police officer, but as someone with extensive experience in homeland security and counterterrorism. As Representative Norton mentioned, after September 11<sup>th</sup>, I served as the Commander of MPD’s Special Operations Division for four years, and I was the first Commanding Officer of the Department’s Office of Homeland Security and Counterterrorism. In that capacity, I worked extensively with a multi-agency taskforce of local and Federal law enforcement agencies to plan and implement security for critical events like the President Inaugural. In short, I have spent a great deal of time working with national experts to analyze terror threats and develop ways to combat them, especially here in the Nation’s capital.

The terrorist attacks of September 11<sup>th</sup>, 2001, demonstrated something that we have known for some time: government facilities, dignitaries, and public servants are prime targets for terrorists, both foreign and domestic. Protecting government officials and infrastructure is a challenge for every city in the United States. But in Washington, DC, the likelihood of attack is higher, and the challenges to protecting the city are greater.

The District’s high concentration of iconic structures—such as the national monuments, the White House, and, of course, the Capitol—make it a highly attractive target. The high-profile human targets—from the Nation’s top elected leaders to the more than 400 foreign dignitaries that make official visits to DC each year—are also an obvious and attractive target. In addition, any Federal building or career public servant is a potential target. We have seen this in numerous



attacks—from the Oklahoma City bombing to the 1993 shootings outside of CIA headquarters at Langley. And overseas, even the families of high-profile leaders and public servants are a frequent target of terrorists. I hope that we never see that in the United States, but with the many important U.S. officials and foreign dignitaries here in the city, it is a possibility we need to recognize. Moreover, it is not just well-coordinated terrorist attacks we need to secure the city against. We must also consider the unsophisticated “lone wolf” terrorist, angry at the US Government for a seemingly small matter, such as the size of a tax refund.

The second key vulnerability is due to the sheer volume of secure motorcades traveling in Washington on any given day. Given the daily movements around the city of the President, Vice President, and their families, and the fact that almost 3,000 foreign dignitaries spend time in our city each year—the routes for their movements cannot be shut down, as they are in other cities. As you know from your own districts, when the President and Vice President travel outside of Washington, roads are cleared of all traffic, parked cars, and such, and spectators are often kept behind barricades. We don’t do this in DC because shutting down the routes for every motorcade would make it virtually impossible to navigate much of the city on a continuous basis, and we don’t want the Nation’s capital to take on the character of an armed fortress. This freedom, however, comes with the cost of higher vulnerability—both for the officials and dignitaries, and the general population. In attempted and successful assassinations around the world, the first step in attacking a motorcade is frequently to take out the security detail with semi-automatic and automatic firearms. This forces the motorcade to stop, at which point the terrorist can use explosives to attack the armored vehicles carrying the targeted individual.

In addition to assisting the Secret Service with daily movements of the President and Vice President around the city, and protecting foreign dignitaries, MPD also provides security support for more than 4,000 special events annually. Some of the events are small—a low-profile protest or foot race—and the threat of a terrorist attack at one of these may be relatively low. However, the risks associated with other events are significant. I would ask you to consider, for example, two events familiar to almost every American, and, I believe, extremely important to the city and to the nation—the 4<sup>th</sup> of July celebration on the National Mall and the Presidential Inauguration. Hundreds of thousands of Americans will be here for these public events. Imagine how difficult

it will be for law enforcement to safeguard the public, not to mention the new President at the Inaugural Parade, if carrying semi-automatic rifles were to suddenly become legal in Washington.

As another example, I'd remind the Committee of the 8,000 delegates who come to Washington from around the world each fall for a meeting of the Boards of Governors of the International Monetary Fund and World Bank. The delegates stay at 16 hotels around the city. Even under current law, new challenges to protecting the delegates from terrorist threats arise each year. That risk would grow exponentially if we had to also protect them from a legally-armed "lone wolf" gunman staying in or working at one of their hotels.

If these scenarios scare you—they should. They scare me. We all have an immediate concern for any life threatened or lost in a terrorist event. But here in the Nation's Capital, we must also recognize that any terrorist incident, no matter how small, would garner world-wide attention and could have significant international implications. I am certain that the broader repercussions of an incident in the city is also of grave concern to everyone in this room.

Finally, on a personal level, the thought of a member of the Metropolitan Police Department or any law enforcement officer being injured or killed during such an incident worries me greatly. The safety of the men and women of MPD serving this city and country are my responsibility, and I take this responsibility very seriously. My Department devotes significant resources to trying to prevent such an event. Providing easy access to deadly semi-automatic firearms and high capacity ammunition clips and allowing them to be carried in a large number of places outside the home will make this job much more dangerous and difficult.

\* \* \* \*

It is clear to me and others engaged every day in securing DC against terrorism that our city is unique. The Federal government already acknowledges that authorizing the general public to carry firearms in certain places is not in the general interest. For instance, as a law enforcement officer, I can carry my gun almost everywhere in the country. I can carry it in schools, on

airplanes, and most public buildings. But ironically, upon entering the Supreme Court to hear the arguments in the *Heller* case, I learned that even the Chief of Police of the District of Columbia cannot carry a gun into the Court. The Federal Government considers the Court building to be so sensitive that, no matter who you are, you cannot wear your firearm in the building.

I would argue that similar caution should apply to the District of Columbia. Supreme Court Justice Scalia, writing the majority decision for the Court, acknowledged that “[L]aws forbidding the carrying of firearms in sensitive places such as schools and government buildings” are constitutional.

The District of Columbia, as the seat of the Federal government, with its multitude of critical official and symbolic buildings, monuments, and events, and high-profile public officials traversing its streets every day, is a city filled with “sensitive” places. Our laws should reflect that reality.

Thank you again for the opportunity to appear before you today. I would be pleased to answer any questions that you have.

\* \* \* \*

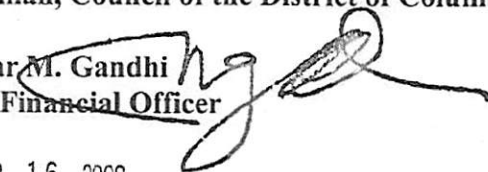
**Government of the District of Columbia  
Office of the Chief Financial Officer**



Natwar M. Gandhi  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Vincent C. Gray  
Chairman, Council of the District of Columbia

**FROM:** Natwar M. Gandhi   
Chief Financial Officer

**DATE:** SEP 16 2008

**SUBJECT:** Fiscal Impact Statement: "Firearms Control Temporary Amendment Act of 2008"

**REFERENCE:** Bill Number 17-887, Amendment in the Nature of a Substitute

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**Conclusion**

Funds are sufficient in the FY 2008 budget and the proposed FY 2009 through FY 2012 budget and financial plan to implement the proposed legislation. Implementation of the proposed legislation would result in initial expenditures of \$1.95 million and annual costs of \$860,000. Resources will be made available to fund this legislation but the shift in resource use would have an operational impact on the Metropolitan Police Department (MPD). In addition, while a registration fee for registering firearms is not reflected in the proposed legislation, it is anticipated that a fee will be implemented in such a way to offset some of the future costs of firearms registration.

**Background**

The proposed legislation would amend multiple sections of D.C. Official Code to allow District residents to register pistols for use in self-defense within the registrant's home. Specifically, the proposed legislation would:

- Allow a District resident to register a pistol for use in self-defense within the registrant's home (D.C. Official Code § 7-2502.02);

- Permit a District resident who holds a valid registration for a firearm to forgo obtaining a license to carry the firearm within the resident's abode, while the firearm is being used for recreational purposes, while the firearm is kept at the registrant's business, or while the firearm is in transport for a lawful purpose (D.C. Official Code § 7-2502.02);
- Require the Chief of the Metropolitan Police Department (Chief) to conduct a ballistics identification procedure on all registered pistols (D.C. Official Code § 7-2502.03);
- Limit registration to no more than one pistol per registrant during any 30-day period (D.C. Official Code § 7-2502.03);
- Prohibit a person from carrying a rifle or shotgun in the District (D.C. Official Code § 22-4504);
- Require each firearm registrant to keep that firearm in his or her possession unloaded and either disassembled or secured by a trigger lock, gun safe, locked box, or other secure device (D.C. Official Code § 7-2507.02);
- Clarify the District's firearms storage policy and provide for penalties for "reckless storage" of a firearm accessible by a minor (i.e. under 16 years of age) (D.C. Official Code § 7-2507.02);
- Revise the definition of "machine gun" to allow semi-automatic handguns to fall under "firearms" that are permitted to be registered (D.C. Official Code § 7-2501.01); and
- Prohibit any person in the District from possessing, selling, or transferring any large capacity ammunition feeding device (i.e. capable of accepting more than 10 rounds of ammunition) (D.C. Official Code § 7-2506.01).

### **Financial Plan Impact**

Funds are sufficient in the FY 2008 budget and the proposed FY 2009 through FY 2012 budget and financial plan to implement the proposed legislation. Implementation of the proposed legislation would result in initial expenditures of \$1.95 million and annual costs of \$860,000. Resources will be made available to fund this legislation but the shift in resource use would have an operational impact on the Metropolitan Police Department (MPD).

Initial costs to implement the legislation would total \$1.95 million and would include the following, which would be incurred in FY 2008:

- **Ballistics Identification:** \$1,081,467
  - Bullet testing component
  - Cartridge testing component
  - Wiring/cabling component

- Testing supplies
  - Mobile bullet capturing devices
- **Personnel:** \$608,202
  - 5 DS-9 Compensation for Firearms Examination Unit
  - 2 DS-9 Compensation for Gun Registration Unit
- **Examination Secure Space:** \$258,000

MPD will use existing resources to fund \$660,000 of the ballistics identification equipment. The additional funding (\$422,000) required to purchase and implement the ballistics testing equipment would come from available funds in the master equipment lease purchase program. This proposed temporary amendment, like the emergency legislation approved in July 2008, would be implemented immediately, and existing personnel would be used to staff the firearms examination and gun registration units. Although the use of existing staff does not result in a fiscal impact, it does result in shifting resources away from other duties within MPD. The cost of additional space would be covered by funds from the Office of Property Management.

In addition, while a registration fee for registering firearms is not reflected in the proposed legislation, it is anticipated that a fee will be implemented in such a way to offset some of the future costs of firearms registration.

A BILL

17-843

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Firearms Control Regulations Act of 1975 to revise the definition of machine gun, to add a definition of assault weapon and prohibit assault weapons, to provide a self-defense exemption for possession of a firearm registered to another person within the home, to provide for the registration of pistols for use in self-defense within the home, to provide that a person holding a valid registration for a firearm shall not be required to obtain a license to carry the firearm within the registrant's home or place of business, while being used for lawful recreational purposes, or while being transported for a lawful purpose in accordance with a District or federal statute, to extend the prohibition on registering firearms to persons with drug convictions of ten years prior to application to persons who have committed an intrafamily offense, and to persons with mental disorders and a history of violence, to establish a registration limit of one pistol per registrant per 30 days, to clarify the process of revocation of a registration certificate, to prohibit large capacity ammunition feeding devices, to provide a process for the renewal of registration certificates, to provide that semi-automatic pistols manufactured and sold in the District be microstamped, to clarify the firearms storage policy, and to establish penalties for the reckless storage of a firearm accessible by a minor; to provide a savings clause with regard to the revised definition of machine gun.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Firearms Registration Amendment Act of 2008".

Sec. 2. The Firearms Control Regulations Act of 1975, effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code § 7-2501.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 7-2501.01) is amended as follows:

(1) Paragraph (9) is amended by striking the phrase "any weapon which will, or is

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designed or redesigned, made or remade, readily converted or restored, and intended to,” and  
inserting the phrase “any weapon, regardless of operability, which will, or is designed or  
redesigned, made or remade, readily converted, restored, or repaired, or is intended to,” in its  
place.

(2) A new paragraph (9A) is added to read as follows:

“(9A) “Intrafamily offense” shall have the same meaning as provided in D.C.  
Official Code § 16-1001(8).”.

(3) Paragraph (10) is amended to read as follows:

“(10) “Machine gun” means any firearm which shoots, is designed to shoot, or can  
be readily restored to shoot, automatically more than one shot, without manual reloading, by a  
single function of the trigger. The term “machine gun” shall also include the frame or receiver of  
any such firearm, any part designed and intended solely and exclusively, or combination of parts  
designed and intended, for use in converting a firearm into a machine gun, and any combination  
of parts from which a machine gun can be assembled if such parts are in the possession or under  
the control of a person.”.

(4) Paragraph (12) is amended by striking the word “hand” and inserting the  
phrase “hand or with a barrel less than 12 inches in length” in its place.

(5) Paragraph (15) is amended by striking the phrase “20 inches in length” both  
times it appears and inserting the phrase “18 inches in length” in its place.

(6) Paragraphs (19) through (23) are added to read as follows:



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(19) “Assault weapon” means the following semiautomatic firearms designated in paragraphs (a) through (d):

(a) All of the following specified rifles: (1) All AK series including, but not limited to, the models identified as follows: (A) Made in China AK, AKM, AKS, AK47, AK47S, 56, 56S, 84S, and 86S. (B) Norinco (all models). (C) Poly Technologies (all models). (D) MAADI AK47 and ARM. (E) Mitchell (all models). (2) UZI and Galil. (3) Beretta AR-70. (4) CETME Sporter. (5) Colt AR-15 series. (6) Daewoo K-1, K-2, Max 1, Max 2, AR 100, and AR110 C. (7) Fabrique Nationale FAL, LAR, FNC, 308 Match, and Sporter. (8) MAS 223. (9) HK-91, HK-93, HK-94, and HK-PSG-1 (10) The following MAC types: (A) RPB Industries Inc. sM10 and sM11. (B) SWD Incorporated M11. (11) SKS with detachable magazine. (12) SIG AMT, PE-57, SG 550, and SG 551. (13) Springfield Armory BM59 and SAR-48. (14) Sterling MK-6. (15) Steyer AUG, Steyr AUG. (16) Valmet M62S, M71S, and M78S. (17) Armalite AR-180. (18) Bushmaster Assault Rifle. (19) Calico M-900. (20) J&R ENG M-68. (21) Weaver Arms Nighthawk.

(b) All of the following specified pistols: (1) UZI. (2) Encom MP-9 and MP-45. (3) The following MAC types: (A) RPB Industries Inc. sM10 and sM11. (B) SWD Incorporated —11. Advance Armament Inc. M-11. (D) Military Armament Corp. Ingram M-11. (4) Intratec TEC-9 and TEC-DC9. (5) Sites Spectre. (6) Sterling MK-7. (7) Calico M-950. (8) Bushmaster Pistol.

(c) All of the following specified shotguns: (1) Franchi SPAS 12 and LAW 12. (2) Striker 12. The Streetsweeper type S/S Inc. SS/12.

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(d) The term “series” includes all other models that are variations, with minor differences, of those models listed in subdivision (a), regardless of the manufacturer.

(e) Notwithstanding paragraphs (a) through (d), “assault weapon” shall also mean any of the following: (1) A semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine and any one of the following: (A) A pistol grip that protrudes conspicuously beneath the action of the weapon. (B) A thumbhole stock. (C) A folding or telescoping stock. (D) A grenade launcher or flare launcher. (E) A flash suppressor. (F) A forward pistol grip. (2) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds. (3) A semiautomatic, centerfire rifle that has an overall length of less than 30 inches. (4) A semiautomatic pistol that has the capacity to accept a detachable magazine and any one of the following: (A) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer. (B) A second handgrip. (C) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning his or her hand, except a slide that encloses the barrel. (D) The capacity to accept a detachable magazine at some location outside of the pistol grip. (5) A semiautomatic pistol with a fixed magazine that has the capacity to accept more than 10 rounds. (6) A semiautomatic shotgun that has both of the following: (A) A folding or telescoping stock. (B) A pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip. (7) A semiautomatic shotgun that has the ability to accept a detachable magazine. (8) Any shotgun with a revolving cylinder.

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(f) The Council finds a significant public purpose in exempting pistols that are designed expressly for use in Olympic target shooting events. Therefore, those pistols that are sanctioned by the International Olympic Committee and by USA Shooting, the national governing body for international shooting competition in the United States, and that are used for Olympic target shooting purposes at the time the act adding this subdivision is enacted, and that would otherwise fall within the definition of “assault weapon” pursuant to this section are exempt, as provided in paragraphs (g) and (h).

(g) “Assault weapon” does not include either of the following: (1) Any antique firearm.  
(2) Any of the following pistols, because they are consistent with the significant public purpose expressed in subdivision (f):

MANUFACTURER	MODEL	CALIBER	
BENELLI	MP90	.22LR	11
BENELLI	MP90	.32 S&W LONG	12
BENELLI	MP95	.22LR	13
BENELLI	MP95	.32 S&W LONG	14
HAMMERLI	280	.22LR	15
HAMMERLI	280	.32 S&W LONG	16
HAMMERLI	SP20	.22LR	17
HAMMERLI	SP20	.32 S&W LONG	18
PARDINI	GPO	.22 SHORT	19
	GP-SCHUMANN		20
PARDINI		.22 SHORT	21
PARDINI	HP	.32 S&W LONG	22
PARDINI	MP	.32 S&W LONG	23
PARDINI	SP	.22LR	24

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PARDINI	SPE	.22LR	1
WALTHER	GSP	.22LR	2
WALTHER	GSP	.32 S&W LONG	3
WALTHER	OSP	.22 SHORT	4
WALTHER	OSP-2000	.22 SHORT	5

(h) The Mayor may exempt new models of competitive pistols that would otherwise  
 fall within the definition of “assault weapon” pursuant to this section from being classified as an  
 assault weapon. The exempt competitive pistols may be based on recommendations by USA  
 Shooting consistent with the regulations contained in the USA Shooting Official Rules or may  
 be based on the recommendation or rules of any other organization that the department deems  
 relevant.

(20) “Magazine” shall mean any ammunition feeding device.

(21) “Capacity to accept more than 10 rounds” shall mean capable of accommodating  
 more than 10 rounds, but shall not be construed to include a feeding device that has been  
 permanently altered so that it cannot accommodate more than 10 rounds.

(22) “.50 BMG rifle” means a center fire rifle that can fire a .50 BMG cartridge and is not  
 already an assault weapon or a machinegun, but does not include any antique firearm.

(23) “.50 BMG cartridge” means a cartridge that is designed and intended to be fired from  
 a center fire rifle and that meets all of the following criteria: (1) It has an overall length of 5.54  
 inches from the base to the tip of the bullet. (2) The bullet diameter for the cartridge is from .510

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to, and including, .511 inch. (3) The case base diameter for the cartridge is from .800 inch to, and including, .804 inch. (4) The cartridge case length is 3.91 inches.

(b) Section 201(b) (D.C. Official Code § 7-2502.01(b)) is amended as follows:

(1) Paragraph (3) is amended by striking the phrase “that such weapon shall be unloaded, securely wrapped, and carried in open view” and inserting the phrase “that such weapon shall be transported in accordance with section 4b of An Act To control the possession, sale, transfer and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes; or” in its place.

(2) A new paragraph (4) to read as follows:

“(4) Any person who temporarily possesses a firearm registered to another person in the home of the registrant; provided, that the person is not otherwise prohibited from possessing firearms and the person reasonably believes that possession of the firearm is necessary to prevent imminent death or great bodily harm to himself or herself or to another person.”.

(c) Section 202 (D.C. Official Code § 7-2502.02) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (3) is amended by striking the word “or” at the end.

(B) Paragraph (4) is amended to read as follows:

“(4) Pistol not validly registered to the current registrant in the District prior to September 24, 1976, except that the prohibition on registering a pistol shall not apply to:

“(A) Any organization that employs at least one commissioned special

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police officer or other employee licensed to carry a firearm and that arms the employee with a  
firearm during the employee's duty hours;

“(B) A police officer who has retired from the Metropolitan Police  
Department; or

“(C) Any person who seeks to register a pistol for use in self-defense  
within that person's home; or”.

(C) A new paragraph (5) is added to read as follows:

“(5) An unsafe firearm prohibited under section 504.”.

“6. Assault weapon; or

“7. .50 BMG rifle.

(2) Subsection (b) is repealed.

(d) Section 203 (D.C. Official Code § 7-

2502.03) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (4) is amended as follows:

(i) The lead-in language is amended by striking the phrase “5 years” and inserting the  
phrase “10 years” in its place.

(ii) Subparagraph (A) is amended by striking the word “or” at the end.

(iii) Subparagraph (B) is amended by adding the word “or” at the end.

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- (iv) A new subparagraph (C) is added to read as follows: 1
- “(C) Intrafamily offense;” 2
- (B) A new subparagraph (6A) is added to read as follows: 3
- “(6A) Within the 5 years immediately preceding the application, has not suffered from a 4
- mental disorder, as defined by rule, and has a history of violent behavior against the 5
- applicant or another person, unless the applicant has a physician's certificate that the 6
- applicant is capable of possessing a regulated firearm without undue danger to the 7
- applicant or to another person;”. 8
- (C) Paragraph (10) is amended as follows: 9
- (i) Strike the phrase “use of the same in accordance with tests and standards” and 10
- inserting the phrase “use, handling, and storage of the same in accordance with training, 11
- tests, and standards” in its place. 12
- (ii) Strike the word “and” at the end. 13
- (D) Paragraph (11) is amended by striking the period at the end and inserting the phrase “; 14
- and” in its place. 15
- (E) A new paragraph (12) is added to read as follows: 16
- “(12)(A) Has not been the respondent in an intrafamily proceeding in which a civil 17
- protection order was issued against the applicant pursuant to D.C. Official Code § 16- 18
- 1005; provided, that an applicant who has been the subject of such an order shall be 19

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eligible for registration if the applicant has submitted to the Chief a certified court record  
establishing that the order has expired or has been rescinded; or  
“(B) Has not been the respondent in a proceeding in which a foreign protection order, as  
that term is defined in D.C. Official Code § 16-1041, was issued against the applicant;  
provided, that an applicant who has been the subject of such an order shall be eligible for  
registration if the applicant has submitted to the Chief a certified court record establishing  
that the order has expired or has been rescinded.”.

(2) New subsections (d) and (e) are added to read as follows:

“(d) The Chief shall require any registered pistol to be submitted for a ballistics  
identification procedure and shall establish a reasonable fee for such procedure.

“(e) The Chief shall register no more than one pistol per registrant during any 30-  
day period.”.

(e) Section 204) (D.C. Official Code § 7-2502.04) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “5 years” and inserting the phrase “6  
years” in its place.

(2) Subsection (c) is amended by striking the phrase “shall be unloaded and securely  
wrapped, and carried in open view” and inserting the phrase “shall be transported in  
accordance with section 4b of An Act To control the possession, sale, transfer and use of  
pistols and other dangerous weapons in the District of Columbia, to provide penalties, to



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prescribe rules of evidence, and for other purposes” in its place. 1

(f) Section 205 (D.C. Official Code § 7-2502.05) is amended by adding a new subsection 2

(c) to read as follows: 3

“(c) The Chief may offer a discount on the registration fees of up to 50% for any 4

applicant who produces a certificate of completion of a firearms safety and proficiency 5

course from an approved instructor as determined by the Chief.”. 6

(g) A new section 207a is added to read as follows: 7

“Sec. 207a. Expiration and renewal of registration certificate 8

“(a) Registration certificates shall expire 3 years after the date of issuance unless 9

renewed in accordance with this section for subsequent 3-year periods. 10

“(b) A registrant shall be eligible for renewal of registration of a firearm if the registrant 11

continues to meet all of the initial registration requirements set forth in section 203(a) and 12

follows any procedures the Chief may establish by rule. 13

“(c) For each renewal, a registrant shall submit a statement to the Metropolitan Police 14

Department attesting to: 15

“(1) Possession of the registered firearm; and 16

“(2) The registrant’s address. 17

“(d) A registrant shall submit to a background check once every 6 years to confirm that 18

the registrant continues to qualify for registration under section 203. 19

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- “(e)(1) The Metropolitan Police Department shall mail a renewal notice to each registrant 1  
at his or her address of record at least 90 days prior to the expiration of the registration 2  
certificate. 3
- “(2) A renewal application shall be received by the Metropolitan Police 4  
Department at least 60 days prior to the expiration of the current registration certificate. 5
- “(f) An applicant for the renewal of a registration certificate may be charged a 6  
reasonable fee to cover the administrative costs incurred by the Metropolitan Police 7  
Department in connection with the renewal. 8
- “(g) The Chief shall establish, by rule, a method for conducting the renewal of 9  
registrations for all firearms registered prior to July 17, 2008. The renewals of all firearms 10  
registered prior to July 17, 2008, shall be completed within 3 years of the effective date of 11  
the Firearms Control Amendment Act of 2008.”. 12
- (h) Section 209 (D.C. Official Code § 7-2502.09) is amended as follows: 13
- (1) Designate the existing text as subsection (a). 14
- (2) The newly designated subsection (a) is amended as follows: 15
- (A) Paragraph (2) is amended by adding the word “or” at the end. 16
- (B) Paragraph (3) is amended by striking the phrase “false; or” and inserting the phrase 17  
“false.” in its place. 18
- (C) Paragraph (4) is repealed. 19

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(3) A new subsection (b) is added to read as follows:

“(b)(1) A registrant shall be fined not more than \$500 for the first violation or omission of the duties, obligations, or requirements imposed by section 208.

“(2) A registrant’s registration shall be revoked for a second violation or omission of the duties, obligations, or requirements imposed by section 208.”.

(i) Section 408 (D.C. Official Code § 7-2504.08) is amended as follows:

(1) Designate the existing text as subsection (a).

(2) A new subsection (b) is added to read as follows:

“(b) Beginning on January 1, 2011, no licensee shall sell or offer for sale any semiautomatic pistol manufactured on or after January 1, 2011 that is not microstamp ready as required by and in accordance with section 503.”.

(j) New sections 503 and 504 are added to read as follows:

“Sec. 503. Microstamping.

“(a) For the purposes of the section, the term:

“(1) “Firearms dealer” means a person or organization possessing a dealer’s license under authority of Title IV

“(2) “Manufacturer” means any person in business to manufacture or assemble a firearm, for sale or distribution.

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“(3) “Microstamp-ready” means a semiautomatic pistol that is manufactured to produce a  
unique alpha-numeric or geometric code on at least 2 locations on each expended  
cartridge case that identifies the make, model, and serial number of the pistol.

“(4) “Semiautomatic pistol” means a pistol capable of utilizing a portion of the energy of  
a firing cartridge to extract the fired cartridge case and automatically chamber the next  
round, and that requires a separate pull of the trigger to fire each successive round.

“(b) Except as provided in subsection (c) of this section, beginning on January 1, 2011, a  
semiautomatic pistol falling into any of the following categories shall be micro-stamp  
ready:

“(1) Manufactured in the District of Columbia;

“(2) Delivered or caused to be delivered by any manufacturer to a firearms dealer in the  
District of Columbia; or

“(3) Sold, offered for sale, loaned, given, or transferred by a firearms dealer in the District  
of Columbia.

“(c) This section shall apply only to semiautomatic pistols that:

“(1) Are manufactured in the District of Columbia, or delivered or caused to be delivered  
to a firearms dealer in the District of Columbia, on or after January 1, 2011; and

“(2) Have not been transferred to a person not licensed as a firearms dealer  
pursuant to state or federal law.

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“(d)(1) Intentionally defacing or altering a microstamp-ready semiautomatic pistol or a  
portion of the pistol for the purpose of preventing law enforcement from identifying the  
unique alpha-numeric or geometric code associated with that pistol is prohibited.

(2) Replacing a firing pin that has been damaged or otherwise in need of replacement for  
the safe use of the semiautomatic pistol or for a legitimate sporting purpose shall not  
alone be evidence that someone has violated this subsection.

“(e) (1) Beginning January 1, 2011, a manufacturer that delivers a semiautomatic pistol, or  
causes a semiautomatic pistol to be delivered, to a firearms dealer for sale in the District of  
Columbia shall certify that:

“(A) Each semiautomatic pistol offered for sale in the District will produce a unique alpha-  
numeric code or a geometric code on each cartridge case that identifies the make, model, and  
serial number of the semiautomatic pistol that expended the cartridge casing; and

“(B) The manufacturer will supply the Chief of Police with the make, model, and serial  
number of the semiautomatic pistol that expended the cartridge case, when presented with  
an alpha-numeric or geometric code from a cartridge case; provided, that the cartridge case  
was recovered as part of a legitimate law enforcement investigation.

“(f) The Chief of Police, pursuant to Title I of the District of Columbia Administrative  
Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et*  
*seq.*), shall issue rules to implement the provisions of this section.

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“(g) Any person who violates this section shall be guilty of a misdemeanor and, upon  
conviction, shall be imprisoned not more than one year, fined not more than \$1,000, or  
both.

“Sec. 504. Prohibition on sale, transfer, ownership, or possession of designated unsafe  
firearms.

“(a) Except as provided in subsections (c), (d), or (e) of this section, beginning January 1,  
2009, a pistol that is not on the California Roster of Approved Firearms as of January 1,  
2009, may not be manufactured, sold, given, loaned, exposed for sale, transferred, or  
imported into the District of Columbia.

“(b) Except as provided in subsection (e) of this section, beginning January 1, 2009, a  
firearm that is not on the California Roster of Approved Firearms as of January 1, 2009,  
may not be owned or possessed within the District of Columbia unless that handgun was  
lawfully owned and registered prior to January 1, 2009.

“(c) Except as provided in subsection (e) of this section, a District of Columbia resident  
who is the owner of a handgun lawfully registered prior to January 1, 2009, that is not on  
the California Roster of Approved Firearms as of January 1, 2009, and who wishes to sell  
or transfer that handgun after January 1, 2009, may do so only by selling or transferring  
ownership of the handgun to a licensed firearm dealer.

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- “(d) Except as provided in subsection (e) of this section, beginning January 1, 2009, a  
licensed firearm dealer who retains in the dealer’s inventory, or who otherwise lawfully  
acquires, any firearm not on the California Roster of Approved Firearms as of January 1,  
2009, may sell, loan, give, trade, or otherwise transfer the firearm only to another licensed  
firearm dealer.
- “(e) This section shall not apply to:
- “(1) Firearms defined as curios or relics, as defined in 27 C.F.R. § 478.11;
- “(2) The purchase of any firearm by a member of the Metropolitan Police Department and  
other law enforcement personnel designated by the Mayor.
- “(3) Pistols that are designed expressly for use in Olympic target shooting events as  
defined by California Penal Code section 12132 (h);
- “(4) Certain single action revolvers as defined by California Penal Code section 12133;
- “(5) The sale, loan, or transfer of any firearm that is to be used solely as a prop during the  
course of a motion picture, television, or video production by an authorized participant in  
the course of making that production or event or by an authorized employee or agent of  
the entity producing that production or event;
- “(6) The temporary transfer of a lawfully owned and registered firearm for the purposes  
of cleaning, repair, or servicing of the firearm by a licensed firearm dealer; or

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“(7) The possession of a firearm by a non-resident of the District of Columbia while 1  
temporarily traveling through the District for a duration of [less than one day]; provided, 2  
that the firearm is at all times stored unloaded and within a locked box or other locked 3  
container. 4

“(f) The District of Columbia shall provide to the licensed firearm dealers within the 5  
District information about how to obtain a copy of the California Roster of Approved 6  
Firearms. 7

“(g) Any person, firm, corporation, partnership, or other association that violates this 8  
section shall be guilty of a felony and, upon conviction, shall be imprisoned for no more 9  
than 5 years, fined not more than \$5,000, or both.”. 10

(k) Section 601 (D.C. Official Code § 7-2506.01) is amended as follows: 11

(1) Designate the existing text as subsection (a). 12

(2) A new subsection (b) is added to read as follows: 13

“(b) No person in the District shall possess, sell, or transfer any large capacity 14  
ammunition feeding device. For the purposes of this subsection, the term “large capacity 15  
ammunition feeding device” means a magazine, belt, drum, feed strip, or similar device 16  
that has a capacity of, or that can be readily restored or converted to accept, more than 10 17  
rounds of ammunition. The term “large capacity ammunition feeding device” shall not 18



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include an attached tubular device designed to accept, and capable of operating only with, 1  
.22 caliber rimfire ammunition.”. 2

(l) Section 702 (D.C. Official Code § 7-2507.02) is amended to read as follows: 3

“Sec. 702. Responsibilities regarding storage of firearms. 4

“(a) It shall be the policy of the District of Columbia that each registrant should 5  
keep any firearm in his or her possession unloaded and either disassembled or secured by 6  
a trigger lock, gun safe, locked box, or other secure device. 7

“(b) No person shall store or keep any firearm on any premises 8  
under his control if he knows or reasonably should know that a minor is likely to gain 9  
access to the firearm without the permission of the parent or guardian of the minor unless 10  
such person: 11

“(1) Keeps the firearm in a securely locked box, secured container, or in a 12  
location which a reasonable person would believe to be secure; or 13

“(2) Carries the firearm on his person or within such close proximity that 14  
he can readily retrieve and use it as if he carried it on his person. 15

“(c)(1) A person who violates subsection (b) of this section is guilty of criminally 16  
negligent storage of a firearm and, except as provided in paragraph (2) of this subsection, 17  
shall be fined not more than \$1,000, imprisoned not more than 180 days, or both. 18

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“(2) A person who violates subsection (b) of this section and the minor causes injury or 1  
death to themselves or another shall be fined not more than \$5,000, imprisoned not more 2  
than 5 years, or both. 3

“(3) The provisions of paragraphs (1) and (2) of this subsection shall not apply if the 4  
minor obtains the firearm as a result of an unlawful entry to any premises by any person. 5

“(d) For the purposes of this section, the term “minor” shall mean a person under 6  
the age of 18 years.”. 7

(m) A new section 702a is added to read as follows: 8

“Sec. 702a. Prohibition of firearms from public or private property. 9

“(a) The District of Columbia may prohibit or restrict the possession of firearms on its 10  
property and any property under its control. 11

“(b) Private persons or entities owning property in the District of Columbia may prohibit 12  
or restrict the possession of firearms on their property.”. 13

(n) Section 705(a) (D.C. Official Code § 7-2507.05(a)) is amended by striking the phrase 14  
“shall be unloaded and securely wrapped in a package” and inserting the phrase “shall be 15  
transported in accordance with section 4b of An Act To control the possession, sale, 16  
transfer and use of pistols and other dangerous weapons in the District of Columbia, to 17  
provide penalties, to prescribe rules of evidence, and for other purposes” in its place. 18

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(n) D.C. Code § 7-2551.01 is amended by deleting “:(1) ‘Assault weapon’” and all that follows and replacing it with “‘assault weapon’ shall have the same meaning as in paragraph (19) of § 7-2501.01.”

**Sec. 3. Savings clause.**

Nothing in section 2(a)(3) shall affect any action, proceeding, or prosecution commenced before September 16, 2008. Any such action, proceeding, or prosecution shall continue, or may be enforced, in the same manner and to the same extent as if the amendment made by that section had not been made.

**Sec. 4. Fiscal impact statement.**

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1974 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

**Sec. 5. Effective date.**

This act shall take effect following approval by the Mayor (or in the event veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.